(THIRD) REPORT

(OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA)

FOR THE YEAR ENDING MARCH 31

1907 /1908

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1909

[No. 20c—1909]

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

Hon. J. P. MABEE, Chief Commissioner.

Hon. M. E. BERNIER, Deputy Chief Commissioner.

JAMES MILLS, Commissioner.

A. D. CARTWRIGHT, *Secretary.*

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REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

OTTAWA, ONT., March 31, 1908.

To His Excellency the Governor in Council:

Pursuant to the provisions of section 62 of the Railway Act, the Board of Railway Commissioners for Canada has the honour to submit its third report for the year ending March 31, 1908.

Nothing more than a general outline is given of the work performed by the Board during the past year, specific information being obtainable by reference to the reports of the Board's officers, set forth in the Appendices of this report.

The general work of the Board has continued to expand, as will be seen by reference to the number of applications, orders issued, &c.

PUBLIC SITTINGS OF THE BOARD.

Between the 1st of April, 1907, and the 31st of March, 1908:—

Province of Ontario:

Chatham—29th October, 1st and 2nd November, 1907; 20th March, 1908.
Hamilton—30th October, 1907.
Fort William—8th July, 27th September, 1907; 4th January, 1908.
Ingersoll—19th March, 1908.
Lindsay—7th May, 1907.
Orillia—8th May, 1907.
Ottawa—2nd, 3rd, 16th, 18th and 23rd April, 27th and 28th June, 3rd and 5th July, 21st, 22nd and 23rd October, 15th November, 3rd, 4th, 5th and 23rd December, 1907; 24th, 27th, 28th, 29th, 30th and 31st January, 1908; 1st, 2nd, 3rd, 4th, 5th, 6th, 14th and 15th February, 1908; 12th March, 1908.
Peterborough—17th March, 1908.
Toronto—9th May, 5th, 6th and 7th November, 1907; 18th March, 1908.

Province of Quebec:

Montreal—29th April, 27th, 28th, 29th, 30th and 31st May, 18th October, 10th, 11th and 12th December, 1907; 7th February, 1908.
St. Lambert—9th December, 1907.

Province of Manitoba:

Treherne—23rd August, 1907.
Winnipeg—9th, 10th, 11th, 12th, 13th, 16th and 20th July, 13th and 17th August, 1907; 6th, 7th and 8th January, 1908.

Province of Alberta:

Calgary.—26th and 27th July, 1907.
Lethbridge—24th July, 1907.

Province of British Columbia:

Vancouver—31st July, 1st, 2nd, 4th, 5th and 6th August, 1907.

Total public sittings, 83, at which 281 applications were heard, a list of which will be found under Appendix 'C.'

Among the more important matters dealt with by the Board, including matters heard at the public sittings above enumerated, special attention might be directed to the following:—

CANADIAN FREIGHT CLASSIFICATION NO. 13.

Application was made to the Board in June, 1907, by the Canadian Freight Association for the approval of Canadian Classification No. 13, cancelling Classification No. 12 and supplements thereto. The changes with respect to 'owner's risk' and other features were numerous and important and greatly in the interests of the public. They were arrived at after numerous consultations between the railway officials, representatives of the Manufacturers' Association and the Board's Chief Traffic Officer, and were apparently acceptable to the Canadian Manufacturers' Association, which represents a large body of shippers.

While there are still some cases in which certain risks are left upon the owner, these have been restricted and clearly defined, and the Board thought that they should be accepted as a fair settlement of the question for the time being. The only real question left for the Board's consideration was as to the wording of Rule 7 defining 'Owner's risk,' so as to avoid a result which would relieve railway companies from responsibility for the acts or omissions of their servants or agents.

The Board, therefore, on 29th June, 1907, issued an order which, amongst other things, directed that Rule 7 of the said classification be amended by add ing to section (a) the following provision, namely:—

'These conditions are intended to cover risks necessarily incidental to transportation, but no such limitation, expressed or otherwise, shall relieve the carriers from liability for any loss or damage which may result from negligence or omission of the company, its agents or employees.'

Since the issuance of the order, the Canadian Manufacturer' Association has complained that the railway companies have apparently construed the new rule with respect to owner's risk so as to give them greater immunity than was intended by the Board. This complaint is receiving the Board's consideration and will be dealt with at an early date.

UNIFORM BILL OF LADING.

This important matter has been pending before the Board since March, 1905, when a complaint was filed by the Canadian Manufacturers' Association and subsequently supported by the Canadian Bankers' Association and by various Boards of Trade, merchants and shippers throughout the Dominion. After considerable correspondence, a draft bill of lading was submitted by a select committee appointed by the railway companies, and this was printed and distributed among the various boards of trade, shippers and business parties interested throughout the Dominion, the following circular accompanying the draft:—

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

OFFICE OF THE SECRETARY, OTTAWA, March 6, 1907

PROPOSED CIRCULAR TO BE SENT, WITH DRAFT FORMS, TO BOARDS OF TRADE AND OTHER BODIES.

On the application of the Grand Trunk Railway Company of Canada, the Canadian Pacific Railway Company, the Canadian Northern Railway Company, and the Pere Marquette Railway Company for the approval by the Board of their forms of bills of lading and other traffic forms, in compliance with the provisions of section 275, subsections 1 and 2, of the Railway Act, 1903, the Board made an order, under date of the 17th of October, A.D. 1904, directing that the applicant companies have power to use the forms then submitted until the Board should thereafter otherwise order and determine, and directed, further, that a select committee be formed of the legal and traffic officers of the several railway companies named, and others who might thereafter submit their applications, such committee to meet the Board at Ottawa at a date to be fixed for the discussion of the said forms and contracts, both freight and passenger, at a session of the Board to be called for such purpose. In pursuance of the said order meetings of the committee referred to have been held, and the legal representatives of the railway companies have prepared and submitted to the Board a draft form embodying the general terms and conditions of carriage, a copy of which is herewith enclosed. That, in order to save time, the Board does not think that it should wait for further conferences between the companies and the Board, but that as great publicity as possible should be given to the consideration of the conditions in order that all parties interested may be able to make any representations they may desire to file the same with the Board.

The Board, therefore, requests that any person desiring to make representations in respect to the draft submitted herewith, file the same with the Secretary of the Board on or before the first day of May next.

By order of the Board,

(Sgd.) A. D. CARTWRIGHT.

Secretary.

Subsequently, on the joint application of the Montreal Corn Exchange, the Montreal Board of Trade, the Canadian Bankers' Association and the Winnipeg Jobbers' Association, the board enlarged the time for the filing of replies until the 1st of August, 1907. In response to the circular, the Board received a large number of suggestions from the various Boards of Trade and other parties interested throughout the Dominion.

As will appear from the 21st Annual Report of the Interstate Commerce Commission, 1907, this very important matter of a uniform Bill of Lading has been pending before that commission since the year 1904, on proceedings originally instituted in November of that year, upon petitions of the Illinois Manufacturers' Associations and other trade and commercial organizations, and the Board having had its attention called by the Canadian Manufcturers' Association to the fact that a special sitting was to be held by the Interstate Commerce Commission at Washington on the 15th October,

1907, for the purpose of considering the question of uniform bills of lading, and suggesting that an officer of the Board should represented and such sittings directed its law clerk, Mr. A. G. Blair, to attend at the sittings and report to the Board the progress made. Mr. Blair's report will be found under Appendix 'Z.'

Owing to pressure of business the Board has not yet taken any further action in the matter, but expects to deal with it in the near future and to bring the conflicting interests with a view to adjusting the differences.

PASSENGER RATES.

As referred to in the previous report of the Board for the year ending March 31, 1907, an order was issued herein, No. 2690, dated March 18, 1907, directing that the Canadian Pacific Railway Company and the Grand Trunk Railway Company reduce their passenger rates on all lines of the respective companies in Canada east of and including the Calgary and Edmonton Railway, so that the same shall not exceed three cents per mile. The same rate was subsequently applied on the lines of the Canadian Northern Railway.

A circular letter was next sent to all the railway companies subject to the jurisdiction of the Board informing them of the order and asking if they were willing to have their standard passenger tariffs similarly reduced, and if not to file their objections with the Board.

Replies have been received from practically all the companies, some consenting, others objecting to the proposed reduction. These are now receiving the Board's consideration.

PROPOSED UNIFORM CODE FOR CANADIAN RAILWAYS—TRAIN RULES.

PETITION OF RAILWAY MEN OF ONTARIO.

In pursuance of the special session held in Ottawa commencing Tuesday, the 5th February, 1907, a select committee of five representing the railway companies operating in Canada, subject to the jurisdiction of the Board, met together and drafted a set of rules which were transmitted to the Board the latter part of June, 1907. A circular letter was then sent by the Board to the steam railway companies subject to its jurisdiction stating tha the Board had been informed that copies of the proposed standard rules and regulations for use on Canadian railways, which has been submitted to the Board for approval, had been furnished to the various Canadian railways, and the Board desired to receive on or before the 1st September, 1907, any objections or suggestions with reference thereto which any of the companies might desire to make. A copy of the draft was also sent to the parties to whom the trainmen had asked them to be sent, and the parties generally were informed that the Board would be unable to take up the consideration of the rules during the summer.

Subsequently, in October, 1907, a draft of proposed rules prepared by a committee of the employees was submitted to the Board for its consideration, and, after considerable further correspondence, it was decided that a special sitting of the Board should be held at which the railways and the trainmen should be represented, with a view to getting the parties to agree upon as many of the rules as possible, leaving it for the board to settle any existing differences in regard to the balance of the proposed rules.

The holding of this sitting, however, had to be postponed owing to the illness and subsequent death of the then Chief Commissioner, A. C. Killam, K.C.

RE INTERNATIONAL AND TORONTO BOARD OF TRADE RATE CASES.

It will be seen by reference to the second annual report of the Board that this was a matter in which a number of complaints had been received from Western Ontario,

charging that the railway companies carried traffic from points in the United States west of the River St. Clair and Detroit to points in Canada at lower rates than from intermediate points in Canada.

This is one of the most important questions with which the Board has had to deal, and as the entire system of freight rates east of Lake Huron has been virtually changed, the Board things it canont do better than include herein the full text of its orders relating to the subject and the reports of the chief traffic officer.

(a) Chief Traffic Officer's Report No. 1, June 27, 1907.
(b) Chief Traffic Officer's Supp. Rep. No. 1, July 5, 1907.
(c) Order No. 3258.
(d) Order No. 3617.
(e) Order No. 3925.
(d) Order No. 3617.
(e) Order No. 3925.
(f) Order No. 4125.

In view of the objections raised by one of the railway companies affected by the orders above recited, the companies were informed that if any of them desired further consideration of the matter, either at the time or after the new rates had come into force, they should put in a formal application for the purpose. Early in January, 1908, such an application was made by the chairman of the Advisory Committee of the Canadian Freight Association, and the matter is now pending before the Board.

OTTAWA, June 27, 1907.

Memorandum.

T.D. No. 18.

RE INTERNATIONAL AND TORONTO BOARD OF TRADE RATE CASES.

File No. 609	File No. 710
Case No. 1314	Case No. 368

REPORT OF CHIEF TRAFFIC OFFICER.

The so-called Internation Rate Case refers to discrepancies between the east and northbound freight rates from Canadian points on the St. Clair, Detroit and Niagara river frontiers, as compared with those from the United States frontier points, namely, Port Huron, Detroit and Buffalo; the Canadian rates being the higher, in contravention, so it is complained to the Board, of the long and short haul provisions of section 315 of the Railway Act. This has been a burning question for many years past, but it was not formally brought before the Board until its hearings at Windsor and Chatham in May, 1906.

The application of the Toronto Board of Trade, heard by the present Board of Railway Commissioners at Toronto May 29, 1906, is, in effect, that the freight rates from Toronto to Montreal and other points east shall not exceed (as they do) the westbound rates from the same eastern points to Toronto; also that certain discrepancies which exist between the Toronto local tariff and the local tariffs at Hamilton and London, to the disadvantage of Toronto, be removed. As to this latter application of the Toronto Board of Trade, I reported to the Board under date of July 30, 1906, making certain recommendations, which, if adopted, would have the desired effect, but in that report I pointed out that 'the true solution was to be found in a general rearrangement of all the class rates between all points, and not merely as they affected Toronto, or Toronto, Hamiton and London.' It became evident at the outset of the investigation following the hearings that the two cases would have to be considered together, to which course the Canadian Manufacturers' Association, who has adopted the International Rate Case, consented; the Board of Trade demurred, but withdrew their objections after I had explained the situation to the transportation committee

of the board at a conference at the Board of Trade at Toronto on the 19th March last. Any reduction in rates from the frontier points in the manufacturers' case would necessarily affect the eastbound rates from Toronto, for the intermediate rates from Chatham, London, Brantford, Hamilton and Toronto would have to be scaled down on the Windsor basis, so that the two cases would become dovetailed; then, again, the revision of the general mileage scale, which would be a factor in the adjustment of the manufacturers' case, would have a direct bearing on the discrepancies between the local tariffs of which the Toronto board complained, and would probably remove them, and, finally, were the Board of Trade's application for the westbound rates eastbound to be granted, any adjustment of the international rates which may have been worked out would be destroyed, for the basis would be entirely different. Briefly, the Toronto applications were included in the broader application of the manufacturers.

In discussing the international rates I propose, for the sake of brevity, to mention more particularly the rates to Toronto and Montreal as being the most important points—the key points in fact—but it will be understood, generally speaking, that all other points east of the lakes are affected under the scaling system. (More detaied figures will be found in the appendices to this report).

The folowing are the present class rates from the frontier points:—

TO TORONTO

From	1	2	3	4	5	6	7	8	9	10
Detroit	36	31	23	16	13	10	Official classification.			
Windsor	40	35	30	25	20	18	16	16	16	14
Port Huron	36	31	23	16	13	10	Official classification.			
Sarnia	36	33	29	24	19	17	15	15	15	13
Buffalo	30	26	20	15	12	10	Official classification.			
Fort Erie	30	26	23	19	15	13	11	11	12	10

TO MONTREAL

Detroit	58½	50½	39	27½	23½	19½	Official classification.			
Windsor (winter)	70	61	53	44	35	33	24	25	27	23
" (summer)	60	53	45	38	30	30	21	..	..	20
Port Huron	58½	50½	39	27½	23½	19½	Official classification.			
Sarnia (winter)	70	61	53	44	35	33	24	25	27	23
" (summer)	60	53	45	38	30	31	21	..	..	20
Buffalo	44	38	30½	21½	18½	15	Official classification.			
Fort Erie (winter)	60	53	45	38	30	28	21	22	24	20
" (summer)	56	49	42	35	28	28	20	..	..	19

On the 4th July, 1906, the secretary of the board, by direction, wrote Mr. Loud, freight traffic manager, Grand Trunk Railway, as chairman of the advisory committee of the Canadian Freight Association, reciting the nature of the complaint with respect to the international rates and concluding as follows:—

'The board recognizes that the conditions of this traffic are affected by the existence of companies in the United States independent of those operating in Canada, and by the operation of the corresponding clause (the long and short haul) in the statute law of the United States, and that the harmonizing of interests in making the changes necessary to apply the rule to traffic originating in the United States destined for points in Canada is a work of difficulty, and it thinks the Canadian railway companies should be given an opportunity to lay a scheme before the board for its consideration, after negotiating with companies operating in the United States, and for that purpose the board will defer further consideration of this complaint for a period of ninety days.'

It was clear that no attempt at harmonizing the rates would be satisfactory under two classifications, namely, the 'official' from Port Huron, Detroit and Buffalo, as in effect throughout the northern states east of Chicago and the Mississippi, and the Canadian classification from Sarnia, Detroit and Fort Erie, as in effect throughout the Dominion; one or the other would have to be adopted, and rather than change the classification throughout the Dominion it was obvious that the American companies might reasonably be asked to adopt the Canadian classification for international

shipments coming into Canada, for only a small proportion of their entire traffic would be affected, and particularly as in the reverse direction the Canadian companies apply the official classification on international shipments from Canada to the States.

The tariff bases also, and not the classification alone, are different on the two sides of the frontier. The Canadian tariffs are built up on the 5th class; the 4th class being 25 per cent; 3rd, 50 per cent; 2nd, 75 per cent, and the 1st class 100 per cent higher than the 5th. There appears to be no such established basis in Central Freight Association territory. From Detroit the present proportions are as follows:—

	1	2	3	4	5	6
To Toronto	260%	210%	130%	60%	30%	....
To Montreal	200%	159%	105%	41%	20%	....

Officials of the Canadian railway companies, representing the Canadian Freight Association, met those of the interested American companies, representing the Central Freight Association of Chicago, at a number of conferences, with the result that the American companies consented to adopt the Canadian classification and the Canadian tariff basis for their international traffic, and within the time allowed by the board the Canadian Freight Association submitted a scheme of rates which they hoped would be acceptable to all parties. This scheme comprised over eighty foolscap pages of printed tables.

An examination of the percentage tariff bases given above will show that if the rates from American points were to be scaled up from the 5th class as is done in Canada, a great reduction in the international joint rates would result. Thus, Detroit to Toronto instead of running from 5th, 13 cents, to 1st, 36 cents, as at present, would run from 13 to 26 cents; from Detroit to Montreal it would be from 23½ 5th to 47 1st, instead of from 23½ to 58½ as now, and similarly with all points in the states west to the Mississippi; and this would be an impossible adjustment from the standpoint of the American railways. The alternative was to accept the present 1st class rates and scale down, and so far as Port Huron, Detroit and Buffalo are concerned this is what has finally been done; with the rates from the Western States we need not be so much concerned, provided the commodity rates on raw materials are not interfered with, that a rearrangement of the rates from Port Huron, Detroit and Buffalo, even on the current 1st class basis, would carry with it a corresponding rearrangement from western points is evident from a comparison of the Canadian percentage scale with those in the States, the Canadian scale producing higher rates on the lower classes; so that in order to avoid infringement of their own Interstate Commerce law by having higher rates from Detroit, &c., the United States companies would have to go farther back and practically rearrange their entire international tariffs. To Montreal the present and proposed rates from Detroit, scaling, as explained above, on the 1st class, and dropping the fractions, are as follows:—

	1	2	3	4	5	6	7	8	9	10
Present	58½	50½	39	27½	23½	19½	Official classification.			
Proposed	58	51	44	36	29	27	26	24	..	21

This was the Detroit-Montreal schedule suggested in the scheme submitted to the board. To Toronto, however, the companies proposed, in addition to the advance in the lower classes resulting from scaling on the existing 1st class on the Canadian basis, an advance in the 1st class rate itself, thus:—

	1	2	3	4	5	6	7	8	9	10
Present	36	31	23	16	13	10	Official classification.			
Proposed	42	37	32	26	21	19	18	17	..	15

This would practically have meant a double advance and pointed to an effort to keep up the Canadian rates from Windsor (and, of course, from intermediate points such as Chatham and London) even beyond the advanced basis which would naturally follow from the substitution of the Canadian classification and scaling for the official.

The companies' draft scheme of the proposed revision of rates was presented to the board by the representatives of the Grand Trunk, Canadian Pacific and Michigan Central Companies at a hearing in the Grand Trunk offices in Montreal on November 8, 1906, and it was then arranged that the scheme should be examined by Mr. Marlow, the manager of the transportation department of the Manufacturers' Association, and by the Chief Traffic Officer of the Board, and that later these two officers should arrange an informal meeting with the advisory committee of the companies for the purpose of comparing notes and enabling the companies to complete their scheme, should the basis have proved satisfactory. This meeting was held in the Grand Trunk offices on the 19th December, and the result was reported by me on December 21st in report No. 2. To quote from the secretary's minutes of the meeting, attached to the file, 'Mr. Marlow considered the basis as a whole satisfactory,' and it was finally agreed that new trial tables should be prepared on the basis of 54 cents, instead of 58 cents, 1st class Detroit to Montreal, and 36 cents instead of 42 cents Detroit to Toronto; and I explained to the railway people that I could not recommend any advance in the rates from the United States frontier points beyond what would follow from the Canadian scaling on the present 1st class rates.

As a result of this meeting a new set of tables was prepared by the companies, and on the 18th January last I attended a meeting in Montreal to have these gone into and explained to me, and on the 24th January they were officially submitted under cover of Mr. Loud's letter of that date. In his letter Mr. Loud stated that his committee had endeavoured to evolve a plan which would conform to my recommendation that whatever scheme of adjustment was finally adopted should take care of the Toronto Board of Trade complaint, as well as that of the manufacturers. He also pointed out that the elaboration of the bases suggested at the Montreal conference December 19, 1906, had proved the impossibility of their voluntary adoption by the companies. To quote from Mr. Loud's letter, even assuming that only 10 per cent of the total tonnage would be affected by the revision, 'the results would be so disastrous and as explained to you at our conference by Mr. Bosworth and myself, and confirmed to you for the Grand Trunk bp Second Vice-President and General Manager Hays, neither the officers of the Grand Trunk or Canadian Pacific Railways feel that they can assume the responsibility for the loss of such a large amount of net revenue; hence cannot agree to make the reduction which would follow the adoption of your suggested figures. At the same time they fully recognize the authority of the board's orders, but in that case the Board, of course, assumes the responsibility of the results.'

The tables submitted included four mileage scales, as follows:—

Scale 'A' based on	38	cents	Windsor to Toronto.	
	56	"	to Montreal, 1st class.	
" 'B' "	36	"	Windsor to Toronto.	
	54	"	to Montreal, 1st class.	
" 'C' "	36	"	Windsor to Toronto.	
	52	"	to Montreal, 1st class.	
" 'D' "	38	"	Windsor to Toronto.	
	54	"	to Montreal, 1st class.	

Elaborate statements were submitted to show the estimated effect that the suggested reductions would have on the Grand Trunk Company's revenues; thus:—

Assuming that only 10 per cent of the company's tonnage would be affected, 1 2 3 4 5 divided 5 per cent, 5 per cent, 20 per cent, 30 per cent, 50 per cent classes, the company would aanually lose under scale 'D' $535,349; under scale 'C' $762,876.

If 15 per cent affected, $879,270 under scale 'D,' $1,229,289 under scale 'C.'

If 20 per cent affected, $1,223,189 under scale 'D,' $1,695,700 under scale 'C.'

Assuming that the reduction on classes would be 1 2 3 4 5 2 per cent, 3 per cent, 15 per cent, 20 per cent, 60 per cent classes, the annual loss would be:—

If 10 per cent of the total tonnage were affected, $496,463 under scale 'D,' $707,913 under scale 'C.'

If 15 per cent affected, $830,068 under scale 'D,' $1,159,945 under scale 'C.'

If 20 per cent affected, $1,154,672 under scale 'D,' $1,599,972 under scale 'C.'

The companies estimated that the Canadian Pacific Company's loss would equal about two-thirds that of the Grand Trunk.

Although it was conceded that these figures merely represented approximations (there had been no time for an audit), it was felt that in justice to the railway companies the Board would not ignore these statistics; but it was also manifest that the verifications of the results by an expert investigation of the company's books would consume so much time that the decision of the Board would have to be indefinitely postponed. It was, therefore, considered that progress should be reported, and a frank exposition placed before the transportation committees of the Manufacturers' Association and the Toronto Board of Trade, and this I did on the 18th and 19th of March last, under instructions from the board. The committees appreciate the difficulties encountered and were indisposed to be unfair to the railway companies; they took a reasonable view of the situation and rather than advise the accounting and its inevitable delays, they decided to accept tentatively any adjustment which the Board might decide upon with the hope that it would recommend itself as a permanency.

Other tables were then drawn up by the companies, having for their object the satisfactory solution of the two cases combined, with a minimum loss to the companies. The principal difficulty was to evolve a mileage scheme which would be reasonably graded as to distances and rates, and which would at the same time produce a maximum rate of 36 cents 1st class from Windsor to Toronto and 58 cents from Windsor to Montreal. Mileage scale 'K' had been reached when I advised the companies' advisory committee that, in my opinion, the attempt ta adjust all the rates—not the local rates west of Toronto alone, but the through rates from points west of Toronto to points east—on a strict mileage basis was impracticable, and I recommended to the committee that he mileage raes be confined o the local tariffs, and that the grouping system, which has always governed what may be regarded as the through rates from points west of Toronto to points east, should be continued, but modified; the said group rates not to exceed the mileage basis adopted for the local rates.

This idea has been adopted, and alternative mileage scales 'L' and 'M' were next submitted. Scale 'L' successfully gave the Buffalo 1st class rate of 30 cents, Fort Erie to Toronto, the Detroit 1st class rate of 36 cents from Windsor to Toronto, and the Detroit 1st class rate of 58 cents from Windsor to Montreal; but the mileage blocks were irregular and unsatisfactory. Scale 'M' showed better mileage groupings, but gave a 38 cent rate for the Windsor-Toronto distance, the companies suggesting that Toronto itself might be covered by a competitive tariff on the 36 cent basis; in other words, the neighbouring intermediate stations in the Toronto group would be held up to 38 cents. Further than this, many of the discrepancies between the Toronto and Hamilton tariffs which the Toronto Board of Trade had complained of (Hamilton having been given the Toronto rates to points north of Beeton and Allandale by the old Hamilton and North Western Railway Company), would have been removed by advancing the Hamilton rates. As these defects seemed to me to foreshadow difficulties, I undertook myself the preparation of scale 'N' (the last), which I do not intend to say is perfect—the necessity for keeping to the Detroit rates from Windsor to Toronto and Montreal making an ideal tariff impossible, but I do consider that it is an improvement in the mileage groupings, the grading being less objectionable than in scales 'L' and 'M.' It gives the proper rates from Windsor to Toronto and Montreal, the rate aimed at by the companies, namely 50 cents, 1st class, Windsor to North Bay, and reasonable mileage arbitraries to Sherbrooke, Quebec and other points east and south of Montreal. One defect is that instead of giving the full Buffalo rate of 30 cents from Fort Erie to Toronto, it gives 28 cents, but this is unavoidable, and is on the safe side, being the lower. In the absence of the members of the advisory com-

mittee, I left a copy of this scale with the committee's rate clerk in Montreal on the 19th inst., but although they were again in the city by the end of the week I have not heard from them.

In Appendix 'A' to this report I have placed the three scales, 'L,' 'M' and 'N,' side by side, showing in each the mileage groups and the 1st class rates, also the lengths of the various groups.

Appendix 'B' shows the rates from Toronto and Hamilton to about forty of the principal points north and west of Toronto; Appendix 'C' the rates to the same points from London and Windsor, as they are at present in the column headed 'now,' and as they would be under scale 'L,' 'M' or 'N.' The red figures indicate advances; under scale 'N' there are none. The reductions in the 1st class rates under scale 'N' run from 2 cents to 8 cents per 100 lbs., and, of course, the lower classes will be scaled as usual, 5th class being 50 per cent of 1st class.

Although I have limited the exhibits to Toronto, Hamilton, London and Windsor, as sufficient for my purpose, it will be understood that the same scale will be used in revising the tariffs at the other common and distributing points; for example,. Guelph, Galt, Brantford, St. Catharines, Chatham, &c. It is also understood that the scale will be departed from in those cases where the longer route has to make reductions to meet the shorter, without necessarily reducing the intermediate rates; in other words, mileage equilization may be made by reducing the scale rates under the authority of section 315, subsection 5, and section 329 of the Railway Act.

Coming now to the eastbound group rates. The scheme proposes the continuation, with some changes necessitated by mileage, of the existing groups in the territory between the G.T.R. Toronto-Point Edward main line and Lake Erie; except that in consequence of the controlling rates from Buffalo, and the changed conditions along the Welland canal, the entire section between the Welland canal and the Niagara river is to be incorporated in the lower Merritton-Grimsby group.

From this territory the present and proposed 1st class rates to Montreal are as follows::—

From	Present Winter.	Present Summer.	Proposed Winter and Summer.
Windsor, Chatham, Newbury, Petrolia, Sarnia, etc.	70	60	58 (Detroit rate)
Strathroy	68	60	56
Glencoe, Komoka, Parkhill	68	68	56
London, St. Thomas, St. Mary's	66	56	54
Woodstock, Ingersoll, Tillsonburg, Stratford, Simcoe	64	56	52
Berlin, Galt, Paris, Brantford	60	50	50
Guelph	58	50	48
Welland	60	44	48
St. Catharines, Meritton, Grimsby	58	44	48
Hamilton, Dundas, Oakville, Port Credit, Brampton	54	42	46, with 42 summer from Hamilton.
Toronto	50	40	44 w. 40 s.

North of the G.T.R. Toronto-Point Edward main line the territory will be similarly grouped on the basis of the mileage scale, but with the rates for equal distances from the southern territory, as described above, as minima. The following are a few of the present and proposed 1st class rates to Montreal, viz.:—

From	Present Winter.	Present Summer.	Proposed Winter and Summer.
Goderich	68	60	56
Kincardine, Southampton	70	60	58
Owen Sound	70	60	56
Collingwood	68	60	56
Mount Forest, Harriston, Palmerston	68	60	52
Fergus, Elora	60	50	50
Orangeville	64	64	48
Barrie	64	50	52

It is necessary to bear in mind in making these comparisons that in the past summer rates (they apply only to points east of and including Peterboro' and Trenton) have been conceded from only comparatively few of the shipping points west of Toronto—competitive points mostly—by far the greater number have never had lower rates in summer than in winter.

It is understood that the companies will continue, if necessary, to meet the competition of the lake lines at actual competitive water points, even if lower than the proposed rates of the groups to which such points belong, but these competitive rates, which are authorized by the Railway Act, will probably be confined at such points as St. Catharines, Merritton, Welland, Windsor, &c., to commodity rates. The companies consider that they should be permitted to do the same at Toronto, but I am strongly in favour of continuing also the summer class rates from Toronto on the basis of 40 cents 1st class, and have so advised the railway people; and I think the same principle should prevail at Hamilton, both these points being large shippers of general merchandise, while the other water points are not. I am strengthened in this opinion by the fact that although the winter rates from Toronto to Montreal will be reduced to the westbound basis, as contended for by the Board of Trade, the eastbound summer rates will still be higher than the westbound by 4 cents per 100 lbs. on 1st class freight—40 cents eastbound as against 36 westbound.

Some explanation is necessary with regard to the Buffalo rates, which have not been made the maxima from the Canadian side as the Detroit rates have from Windsor and the Port Huron rates from Sarnia. The 1st class rate from Buffalo to Montreal is 44 cents; the suggested rate from Fort Erie and itnermediate points in the same group is 48 cents—4 cents higher than Buffalo. To apply the Buffalo rates from Fort Erie and Suspension Bridge would, however, destroy the whole structure, for the Buffalo rate is the proposed winter rate from Toronto; consequently if the Buffalo rate were applied from Canadian frontier points, Hamilton and Toronto could not be higher—to preserve the scheme of grouping they would have to be lower. But if the winter rate Toronto to Montreal were made less than 44 cents, the westbound rates from Montreal would undoubtedly be reduced to the same level, and so further difficulties would be created. It seemed, therefore, to be reasonable under the circumstancse, to advance the Buffalo rates on paper to 48 cents 1st class, to be followed by a competitive tariff on its present basis, namely, 44 cents. The alternative is for the New York Central to advance its Buffalo-Montreal rates to the 48 cent basis, and thus make the suggested competitive tariff unnecessary. But it is doubtful if the New York Central Company will do this, as it would interfere seriously with its rates from such points as Dunkirk and Erie on the Lake Shore. Efforts were made to avoid this discrepancy at the Niagara frontier, but unsuccessfully. I do not consider the dis-

crimination a serious one, especially as its removal would create more serious difficulties elsewhere.

The territory between Toronto and Montreal has been regrouped so as to secure reasonable gradation of mileages and rates. The following are examples of present and proposed 1st class rates from Windsor, viz.:

To	Present.	Proposed.
Whitby, Oshawa	44	40
Bowmanville, Newcastle	46	40
Port Hope, Cobourg	46	42
Trenton, Belleville	48	44
Napanee	54	46
Kingston	54	48
Brockville	60	50
Prescott	60	52
Cornwall	66	54
Montreal	70	58

From stations east of Toronto—from what is known as the Midland division—to Montreal, &c., the straight mileage scale will apply.

To points west and east of Hull, and east and south of Montreal, I propose the following groups and rate bases, in which the companies concur, namely:—

——	Proposed Basis.	Present Basis.
To Aylmer	4 cents over Hull	6
Gatineau to Buckingham, inclusive	6 " "	6 to 10
East of Buckingham Junction to and including St. Augustine and St. Eustache	8 " Montreal	10
Ste. Therese Junction to St. Rose, inclusive	4 " "	10
St. Vincent de Paul to Joliette Junction, inclusive	4 " "	6 to 10
Lanerie to Three Rivers, inclusive, including Berthier	8 " "	10 to 12
East of Three Rivers to Quebec, inclusive	10 " "	14
East and South of Montreal to and including Ste Rosalie, St. Johns, St. Isidore, Howick Junction and Cecile Junction	4 " "	6 to 10
Doucet's Landing, Victoriaville, Dixville and east of Ste. Rosalie; also south of points named in preceding group (C.P.R. group to correspond)	8 " "	10 to 14
East of Victoriaville to Point Levis	10 " "	14

I have endeavoured to give a general outline of the underlying principles of the proposed scheme and of the reductions which it is expected to produce, but in making up the tariffs it may be found that some slight changes may have to be made here and there.

My recommendations are as follows, namely:—

(a) That the special local clas tariffs of the Grand Trunk, Canadian Pacific, Michigan Central, Pére Marquette, Wabash, Toronto, Hamilton and Buffalo, and Canadian Northern Ontario Railway Companies, east of Lake Huron and Sudbury, and south of the Ottawa river, be revised so as to place them all on the same mileage scale, and for this purpose the table of mileage rates lettered 'N,' and shown in Appendix 'A' of this report, be adopted as the bases by the said companies, subject to such reductions from the said mileage table between common or competitive points as may be considered necessary under the authority contained in section 315, subsection 5, and section 329 of the Railway Act; the rates in all cases to be based on the shortest practicable mileage.

(b) That, subject to clause 'D,' for the purpose of compiling through special winter and summer class freight tariffs from points west of Toronto to points east thereof, the territory south of and including the Grand Trunk Railway Company's main line Toronto to Point Edward, via Stratford, be divided into groups on the principle now existing, but modified by the mileage table referred to in clause (a); all points on the Welland canal to be included in the Fort Erie-Stoney Creek group, and the rates to Montreal to be as outlined in the memorandum of the Toronto conference of May 23, as follows:—

From.	Rate.	Class.
Windsor, Amherstburg, Courtright, Sarnia, Newbury, Alvinston, and Forrest	58 cents	1st Class.
From intermediate points east to and including Hyde Park	56 "	"
London, St. Thomas, St. Mary's, Thamesford, Port Burwell and Port Rowan	54 "	"
Woodstock, Ingersoll, Stratford, Waterford and Port Dover	52 "	"
Berlin, Galt, Brantford	50 "	"
Guelph	48 "	"
Fort Erie, Suspension Bridge, Port Colborne, Welland, St. Catharines, and Grimsby	48 "	"
Merritton, Dundas, Oakville and Georgetown	46 "	"
Toronto	44 "	"

(c) That the territory north of that covered by clause (b) and west of and including the Grand Trunk line between Toronto and Barrie be similarly grouped and the rate table referred to in clause (a) applied, but with the rates for equal distances in the territory covered by clause (b) as minima.

(d) That from points competitive with the lake and river lines the companies may publish from and to such competitive points, during the season of navigation, such commodity rates as may be necessary to meet the competition of the water carriers, and shall also publish from Toronto and Hamilton to Ottawa and Montreal, and intermediate points, competitive class tariffs on the basis now existing, but not to exceed the mileage rates referred to in clause (a).

(e) That the through rates from the aforesaid groups be reasonably graduated to points east of Toronto on the basis outlined for the Grand Trunk main line at the Toronto conference of May 23, 1907, with corresponding scaling along the line of the Canadian Pacific Railway.

(f) That the eastbound rates from the territory east of Toronto and Orillia, and east of and including Depot Harbour, Parry Sound and North Bay, be in accordance with the mileage table referred to in clause (a), having regard to the adjoining group rates under clause (c).

(g) That to points in Quebec west and east of Hull and east and south of Monon the lines of the Grand Trunk and Canadian Pacific Railway Companies, the through rates from the grouped territory as defined in clauses (b) and (c), be arrived at in accordance with the scale shown on page 23 of this report.

(h) That the companies and their United States connections be permitted to substitute the Canadian freight classification for the official classification from Detroit and Port Huron and from points west thereof vit the Detroit and St. Clair river crossings, and to scale the lower classes on the 1st class rates now current. The Canadian classification to be substituted for the official from Central Freight Association points via the Niagara frontier. (*Re* Buffalo proper see footnote.)

(j) That the rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river shall in no case exceed the rates from Detroit and Port Huron as fixed by clause (h).

(k) That in the adjustment of the international rates referred to in clause (h) the rates on raw materials from points in the United States to points in Canada shall

not be advanced at the instance, direct or indirect, of the companies operating in Canada, by reason of the changes in the rate bases herein permitted or prescribed.

(l) That no change shall be made in the westbound rates from Montreal to the grouped territory west of and including Toronto and intermediate points, as a consequence of this order of the board.

Respectfully submitted,

J. HARDWELL,

Chief Traffic Officer.

A. D. CARTWRIGHT, Esq.,
Secretary, B.R.C.

NOTE.—*In* clause 'b, with respect of the rates from Fort Erie, &c., I have made no reference to the proposed readjustment of the Buffalo rates to Montreal which is referred to in my report. The raising of the Buffalo rates on paper to the 48 cent basis, and the substitution of the present 44 cent basis by competitive tariff, would simply be a means to an end; and having regard to the explanation I have given I am of the opinion that a departure from the long and short haul clause might reasonably be authorized by the board in this case.

APPENDIX 'A.'

SCALE 'L.'			SCALE 'M.'			SCALE 'N.'		
Group Length.	Distance Groups.	Rate.	Group Length.	Distance Groups.	Rate.	Group Length.	Distance Groups.	Rate.
Miles.	Miles.	Cents.	Miles.	Miles.	Cents.	Miles.	Miles.	Cents.
	To 5	8		To 5	8		To 5	8
5	6 " 10	10	5	6 " 10	10	5	6 " 10	10
5	11 " 15	12	5	11 " 15	12	5	11 " 15	12
5	16 " 20	14	5	16 " 20	14	5	16 " 20	14
10	21 " 30	16	10	21 " 30	16	10	21 " 30	16
10	31 " 40	18	10	31 " 40	18	10	31 " 40	18
10	41 " 50	20	10	41 " 50	20	10	41 " 50	20
10	51 " 60	22	10	51 " 60	22	15	51 " 65	22
10	61 " 70	24	10	61 " 70	24	15	66 " 80	24
10	71 " 80	26	10	71 " 80	26	20	81 " 100	26
20	81 " 100	28	15	81 " 95	28	25	101 " 125	28
20	101 " 120	30	15	96 " 110	30	25	126 " 150	30
35	121 " 155	32	30	111 " 140	32	25	151 " 175	32
35	156 " 190	34	30	141 " 170	34	25	176 " 200	34
35	191 " 225	36	30	171 " 200	36	25	201 " 225	36
30	226 " 255	38	30	201 " 230	38	25	226 " 250	38
30	256 " 285	40	30	231 " 260	40	30	251 " 280	40
30	286 " 315	42	30	261 " 290	42	30	286 " 310	42
30	316 " 345	44	30	291 " 320	44	30	311 " 340	44
30	346 " 375	46	30	321 " 350	46	30	341 " 370	46
30	376 " 405	48	30	351 " 380	48	30	371 " 400	48
30	406 " 435	50	30	381 " 410	50	35	401 " 435	50
			30	411 " 440	52	35	436 " 470	52
			30	441 " 480	54	35	471 " 505	54
			40	481 " 520	56	35	506 " 540	56
			40	521 " 560	58	35	541 " 575	58

(Sgd.) J. HARDWELL.

APPENDIX 'B.'

Sheet 1.

Comparison between Present and Proposed First Class Rates from Toronto and Hamilton.

From Toronto.					To	From Hamilton.				
Miles.	Now	L.	M.	N.		Miles.	Now	L.	M.	N.
30	18	16	16	16	Georgetown	33	20	18	18	18
39	22	18	18	18	Hamilton					
40	22	18	18	18	Tottenham	62	24	24	24	22
43	24	20	20	20	Beeton	67	26	24	24	24
49	24	20	20	20	Guelph	40	24	18	18	18
54	24	22	22	22	Harrisburg	20	14	14	14	14
58	24	22	22	22	Galt	31	18	18	18	18
60	28	22	22	22	Brantford	25	16	16	16	16
63	22	*24	*24	22	Berlin	52	24	22	22	22
63	26	24	24	22	Elora	60	24	22	22	22
63	26	24	24	22	Allandale	92	26	28	28	26
64	26	24	24	22	Harris	29	18	16	16	16
64	26	24	24	22	Barrie	93	26	28	28	26
66	26	24	24	24	Fergus	63	26	24	24	22
83	30	28	28	26	Woodstock	48	22	20	20	20
86	30	28	28	26	Orillia	115	30	30	32	28
87	30	28	28	26	Mount Forest	101	32	30	30	28
89	30	28	28	26	Stratford	61	24	24	24	22
92	30	28	28	26	Palmerston	89	30	28	28	26
92	32	28	28	26	Ingersoll	58	24	22	22	22
93	30	28	28	26	Harriston	95	32	28	28	26
95	32	28	28	26	Collingwood	108	32	30	30	28
99	32	28	30	26	St. Mary's	71	26	26	26	24
101	32	30	30	28	Listowel	90	30	28	28	26
102	34	30	30	28	Penetang	130	34	32	32	30
111	36	30	32	28	London	77	30	26	26	24
112	34	30	32	28	Gravenhurst	140	34	32	32	30
116	34	30	32	28	Meaford	130	34	32	32	30
119	34	30	32	28	Walkerton	116	34	30	32	28
119	36	30	32	28	Midland	148	38	32	34	30
119	36	30	32	28	St. Thomas	85	30	26	26	24
120	34	30	32	28	Wingham	119	34	30	32	28
122	34	32	32	28	Owen Sound	160	34	34	34	32
122	36	32	32	28	Clinton	94	32	28	28	26
134	36	36	32	30	Goderich	106	34	30	30	28
151	38	32	34	32	Southampton	148	38	32	34	30
159	38	34	34	32	Kincardine	147	38	32	34	30
162	34	34	34	32	Wiarton	158	34	34	34	32
176	38	34	36	34	Chatham	141	36	32	34	30
221	40	36	36	36	Windsor	187	38	34	36	34
227	46	38	38	38	North Bay	256	46	49	40	40

Figures shown by * are increases over present rates.

(Sgd.) J. HARDWELL.

APPENDIX 'C.'

Sheet 1.

Comparison between Present and Proposed First Class Rates from Windsor and London.

From Windsor.					To	From London.				
Miles.	Now.	L.	M.	N.		Miles.	Now.	L.	M.	N.
46	24	20	20	20	....Chatham	65	26	24	24	22
108	30	30	30	28	....St. Thomas	15	12	12	12	12
110	30	30	30	28	....London	....	....	....	....	....
130	36	32	32	30	....Ingersoll	20	14	14	14	14
133	34	32	32	30	....St. Mary's	23	16	16	16	16
139	36	32	32	30	....Woodstock	27	16	16	16	16
143	36	32	34	30	....Stratford	33	20	18	18	18
158	36	34	34	32	....Paris	48	22	20	20	20
160	38	34	34	32	....Clinton	51	22	22	22	22
165	36	34	34	32	....Brantford	56	26	22	22	22
168	38	34	34	32	....Harrisburg	58	24	22	22	22
169	38	34	34	32	....Berlin	59	24	22	22	22
172	38	34	36	32	....Goderich	62	26	24	24	22
172	40	34	36	32	....Listowel	62	24	24	24	22
179	38	34	36	34	....Galt	58	24	22	22	22
181	42	34	36	34	....Palmerston	71	26	26	26	24
183	38	34	36	34	....Guelph	73	30	26	26	24
185	42	34	36	34	....Wingham	75	28	26	26	24
187	38	34	36	34	....Hamilton	77	30	26	26	24
187	42	34	36	34	....Harriston	76	28	26	26	24
192	42	36	36	34	....Mount Forest	82	28	28	28	26
196	42	36	36	34	....Elora	86	30	28	28	26
199	42	36	36	34	....Fergus	88	30	28	28	26
202	40	36	38	36	....Georgetown	92	30	28	28	26
208	44	38	38	36	....Walkerton	98	32	28	30	26
213	42	36	38	36	....Kincardine	103	34	30	30	28
232	46	38	40	38	....Tottenham	122	36	32	32	28
....	....	....	....	....	....Windsor	110	30	30	30	28

APPENDIX 'C.'

SHEET 2.

Comparison between Present and Proposed First Class Rates from Windsor and London.

From Windsor.					To	From London.				
Miles.	Now.	L.	M.	N.		Miles.	Now.	L.	M.	N.
236	46	38	40	38	....Beeton	126	36	32	32	30
240	46	38	40	38	....Southampton	130	36	32	32	30
250	46	38	40	38	....Wiarton	140	36	32	32	30
252	50	38	40	40	....Owen Sound	142	36	32	34	30
261	50	40	42	40	....Allandale	151	38	32	34	32
262	50	40	42	40	....Barrie,	152	38	32	34	32
278	50	40	42	40	....Collingwood	168	38	34	34	32
284	50	40	42	42	....Orillia	174	40	34	36	32
299	50	42	44	42	..Meaford	189	40	34	36	34
300	50	42	44	42	....Penetang'	190	42	34	36	34
310	52	42	44	42	....Gravenhurst	200	42	36	36	34
317	50	44	44	44	....Midland	207	44	36	38	36
425	68	50	52	50	....North Bay	315	52	42	44	44

(Sgd.) J. HARDWELL.

OTTAWA, July 5, 1907.

Memorandum.

T.D. No. 18.

RE INTERNATIONAL AND TORONTO BOARD OF TRADE RATE CASES.

File No. 609. Case No. 1314.

File No. 710. Case No. 368.

SUPPLEMENTARY REPORT NO. 1 OF CHIEF TRAFFIC OFFICER.

The board accorded an informal hearing to-day to the advisory committee of the Canadian Freight Association who desired to express their objections to the proposed mileage scale 'N,' which I left with the committee's rate clerk in Montreal on the 19th June. That scale, as explained in my report, was intended to overcome the proposed competitive tariff between Windsor and Toronto, and the advance in the Hamilton rates to points north of Beeton Junction and Allendale. The working out of this scale, however, obviously reduced the committee's scale 'M' rates for mileage other than those affected by the Toronto and Hamilton rates, to the extent that the rates for distances over 100 miles would be so reduced as virtually to give a scale lower than 'D,' which was the one the companies objected to at the outset and which their statements submitted were intended to prove would result in so great a loss of revenue.

Recognizing the force of these objections I have arranged with the advisory committee to make 36 cents basis Windsor to Toronto the maxima to intermediate points, so as to avoid the necessity for a separate competitive tariff to Toronto proper, also to avoid any increases which scale 'M' would make from Hamilton to points north of Beeton and Allandale be repeating the present rates where these are lower than scale 'M.'

With these modifications I am prepared tentatively to recommend the adoption of the committee's scale 'M,' and for clause (a) of the recommendations in my report to substitute the following, viz.:—

'(a) That the speciol local class tariffs (known as "town tariffs") of the Grand Trunk, Canadian Pacific, Michigan Central, Pére Marquette, Wabash, Toronto, Hamilton and Buffalo and Canadian Northern Ontario Railway Companies, east of the Detroit and St. Clair rivers, Lake Huron, Georgian Bay and North Bay, and south of the Ottawa river, be reudced so as to place them all on the same mileage scale, and that for this purpose the table of mileage rates lettered 'M' and shown in Appendix 'A' to this report, be adopted as the bases by the said companies, subject to such reductions fro mthe said mileage table between common or competitive points as may be considered necessary under the authority contained in section 315, subsection 5, and section 329 of the Railway Act; the rates in all cases to be based on the shortest workable mileage; subject also to Toronto rates on the basis of 36 cents 1st class as the maxima from points on the Canadian side of the Detroit and St. Clair rivers to points intermediate to Toronto, and to the present rates as the maxima from Hamilton to points north of Beeton Junction and Allandale.'

I should add that the companies' scale 'M' referred to above was accepted by the manager of the transportation department of the Canadian Manufacturers' Association as satisfactory to his association; also that in removing the discrimination between the distributing towns, which forms part of the complaint of the Toronto Board of Trade, general reductions have been made at such points as London, Brantford, Chatham, St. Catharines, &c., which were really not applied for.

Respectfully submitted,

(Sgd.) J. HARDWELL,

Chief Traffic Officer.

A. D. CARTWRIGHT, Esq.,
Secretary.

SESSIONAL PAPER No. 20c

ORDER 3258.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA MEETING AT OTTAWA SATURDAY, THE 6TH DAY OF JULY, A.D. 1907.

Present:

A. C. KILLAM,
Chief Commissioner.
Hon. M. E. BERNIER,
Deputy Chief Commissioner.
JAMES MILLS,
Commissioner.

In the matter of the application of the Canadian Manufacturers' Association and the shippers who were heard and represented at the hearings held by the board in Windsor and Chatham, Ontario, in the month of May, 1906, and of the Board of Trade of the city of Toronto, hereinafter called the 'Applicants.'

Upon hearing what was alleged on behalf of the applicants and counsel for the railway companies, the evidence adduced, and upon the report and recommendation of its chief traffic officer, the board doth order:—

(a) That the special local class tariffs (known as 'town tariffs') of the Grand Trunk Railway Company of Canada, the Canadian Pacific Railway Company, the Michigan Central Railroad Company, the Pere Marquette Railroad Company, the Wabash Railroad Company, the Toronto, Hamilton and Buffalo Railway Company, and the Canadian Northern Ontario Railway Company, east of the Detroit and St. Clair rivers, Lake Huron and the Georgian Bay and North Bay (east and southbound), and south of the Ottawa river, be reduced so as to place them on the same mileage scale; and that for this purpose the table of mileage rates, particularly set forth in the schedule hereto annexed, marked 'A,' which is hereby made part of this order, be adopted as the bases by the said companies, subject to such reductions from the said mileage table between common or competitive points as may be considered necessary under the authority contained in sections 315 and 329 of the Railway Act; the rates in all cases to be based on the shortest workable mileage, subject also to Toronto rates on the basis of 36 cents 1st class as the maxima from points on the Canadian side of the Detroit and St. Clair rivers to points intermediate to Toronto, and to the present rates as the maxima from Hamilton to points north of Beeton Junction and Allandale.

(b) That, subject to clause 'd' of this order, for the purpose of compiling through special winter and summer class freight tariffs from points west of Toronto to points east thereof, the territory south of and including the Grand Trunk Railway Company's main line Toronto to Point Edward, via Stratford, be divided into groups on the principle now existing, but modified by the mileage table referred to in clause 'a' of this order; all points on the Welland canal to be included in the Fort Erie-Stoney Creek group, and the rates to Montreal to be as outlined in the memorandum of the Toronto conference of May 23, 1907, as follows:—

From	Amount.	Class.
Windsor, Amherstburg, Courtright, Sarnia, Newbury, Alvinston and Forest.	58 cents.	1st class.
From intermediate points east to and including Hyde Park	56 "	"
London, St. Thomas, St. Mary's, Thamesford, Port Burwell and Port Rowan.	54 "	"
Woodstock, Ingersoll, Stratford, Waterford and Port Dover	52 "	"
Berlin, Galt, Brantford	50 "	"
Guelph	48 "	"
Fort Erie, Suspension Bridge, Port Colborne, Welland, St. Catherines, Grimsby	48 "	"
Merritton, Dundas, Oakville and Georgetown	46 "	"
Toronto	44 "	"

(c) That the territory north of that covered by clause 'b' and west of and including the Grand Trunk Railway Company's line between Toronto and Barrie be similarly grouped and the rate table referred to in clause 'a' be applied, but with the rates for equal distances in the territory covered by clause 'b' as minima.

(d) That from points competitive with the lake and river lines the companies may publish from and to such competitive points, during the season of navigation, such commodity rates as may be necessary to meet the competition of the water carriers, and shall also published from Toronto to Hamilton to Ottawa and Montreal, and intermediate points, competitive class tariffs on the basis now existing, but not to exceed the mileage rates referred to in the said clause 'a.'

(e) That the through rates from the aforesaid groups be reasonably graduated to points east of Toronto on the basis outlined for the Grand Trunk Company's main line at the Toronto conference of May 23, 1907, with corresponding scaling along the line of the Canadian Pacific Railway Company.

(f) That the eastbound rates from the territory east of Toronto and Orillia, and east of and including Depot Harbour, Parry Sound and North Bay, be in accordance with the mileage table referred to in the said clause 'a,' having regard to the adjoining group rates under clause 'c.'

(g) That to points in Quebec west and east of Hull and east and south of Montreal, on the lines of the Grand Trunk and Canadian Pacific Railway Companies, the through rates from the grouped territory as de fined in clauses 'b' and 'c,' be arrived at in accordance with the following scale, namely:—

—	Rate.	Class.
To Aylmer	4 cents over Hull	1st Class.
Gatineau to Buckingham, inclusive	6 " "	"
East of Buckingham Junction to and including St. Augustine; north and south of Ste. Therese Junction to and including St. Jerome and St. Eustache	8 " Montreal	"
Ste. Therese Junction to Ste. Rose, inclusive	4 " "	"
St. Vincent de Paul to Joliette, inclusive	4 " "	"
Lanoraie to Three Rivers, inclusive, including Berthier	8 " "	"
East of Three Rivers to Quebec, inclusive	10 " "	"
East and South of Montreal to and including Ste. Rosalie, St. Johns, St. Isidore, Howick Junction and Cecile Junction	4 " "	"
Doucets Landing, Victoriaville, Dixville and East of St. Rosalie, also south of points named in preceding group (C.P.R. group to correspond)	8 " "	"
East of Victoriaville to Point Lévis	10 " "	"

(h) That no special commodity rates now existing, which may be lower than the corresponding class tariff rates therein prescribed, shall be advanced by reason of the changes herein ordered, or without the sanction of the board.

(i) That the said railway companies and their connections in the United States be permitted to substitute the Canadian freight classification for the official classification from Detroit and Port Huron, and from points west thereof via the Detroit and St. Clair river crossings, also from Buffalo and Suspension Bridge, New York, and, where necessary, from points south and west thereof via the Niagara frontier, and to scale the lower classes on the first-class rates not existing.

(j) That the rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river shall in no case exceed the rates from Detroit and Port Huron as fixed by clause (h).

(k) That in the adjustment of the international rates referred to in clause (h), the rates on raw materials from points in the United States to points in Canada shall not be advanced at the instance, direct or indirect, of the companies operating in Canada by reason of the changes in the rate bases herein permitted or prescribed.

(l) That no change shall be made in the westbound rates from Montreal to the grouped territory west of and including Toronto and intermediate points as a consequence of this order of the board.

(Sgd.) A. C. KILLAM,
Chief Commissioner,
Board of Railway Commissioners for Canada.

SCHEDULE "A."

Distance Groups.	1st Class rates in cents per 100 lbs.	Distance Groups.	1st Class rates in cent per 100 lbs.
Miles.	Cents.	Miles.	Cents.
0 miles to 5	8	141 miles to 170	34
6 " 10	10	171 " 200	36
11 " 15	12	201 " 230	38
16 " 20	14	231 " 260	40
21 " 30	16	261 " 290	42
31 " 40	18	291 " 320	44
41 " 50	20	321 " 350	46
51 " 60	22	351 " 380	48
61 " 70	24	381 " 410	50
71 " 80	26	411 " 440	52
81 " 95	28	441 " 480	54
96 " 110	30	481 " 520	56
111 " 140	32	521 " 560	58

ORDER No. 3617.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA MEETING AT OTTAWA, THE 23RD DAY OF SEPTEMBER, A.D. 1907.

Present:

A. C. KILLAM, *Chief Commissioner,*
Hon. E. M. BERNIER, *Deputy Chief Commissioner,*
JAMES MILLS, *Commissioner.*

In the matter of the applications of the Canadian Manufacturers' Association and the shippers who were heard and represented at the hearings held by the board in Windsor and Chatham, Ontario, in the month of May, 1906, and of the Board of Trade of the city of Toronto, hereinafter called the 'applicants.'

Whereas an order of the board was issued in the above application dated 6th July, 1907, and

Whereas the board has decided to issue a supplementary order amending said order of the 6th July, 1907;

Upon the report and recommendation of the chief traffic officer of the board, the board doth order:—

That clause '*j*' in the said ored of the 6th July, 1907, be, and the same is hereby, cancelled, and the following clause substituted therefor: '(*j*) That the rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river shall in no case exceed the rates from Detroit and Port Huron.'

(Sgd.) A. C. KILLAM,
Chief Commissioner,
Board of Railway Commissioners for Canada.

ORDER No. 3925.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA MEETING AT OTTAWA, THE 13TH DAY OF NOVEMBER, A.D. 1907.

Present:

A. C. KILLAM, *Chief Commissioner,*
Hon. M. E. BERNIER, *Deputy Chief Commissioner,*
JAMES MILLS, *Commissioner.*

In the matter of the application of the Canadian Manufacturers' Association and the shippers who were heard and represented at the hearings held by the board in Windsor and Chatham, Ontario, in the month of May, 1906, and of the Board of Trade of the city of Toronto.

Whereas, by order of the board No. 3258, dated the 6th July, A.D. 1907, the board directed that certain revised tariffs of freight tolls were to be prepared, and published and filed by the railway companies;

And whereas it has decided to fix a date upon which the said tariffs shall come into force;

Upon the report of the chief traffic officer of the board, the board doth order:—

That the revised tariffs of freight tolls referred to in the order of the board No. 3258, dated the 6th July, A.D. 1907, be, and they are hereby, ordered to come into force, from points in Canada, not later than the 1st January, 1908.

(Sgd.) A. C. KILLAM,
Chief Commissioner,
Board of Railway Commissioners for Canada.

File No. 4609.
Case 1314.

Order No. 4125.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA MEETING AT OTTAWA, WEDNESDAY, THE 16TH DAY OF DECEMBER, A.D. 1907.

Present:

A. C. KILLAM, *Chief Commissioner,*
JAMES MILLS, *Commissioner.*

In the matter of the application of the Canadian Manufacturers' Association and the shippers who were heard and represented at the hearings held by the board in Windsor and Chatham, Ontario, in the month of May, 1906, and of the Board of Trade of the city of Toronto, hereinafter called the 'applicants.'

Upon reading the letters dated respectively 16th December, 1907, and 18th December, 1907, addressed to the secretary of the board by Mr. W. R. MacInnes, chairman of the advisory committee of the Canadian Freight Association, representing the railway companies affected by the order of the board made on the 6th July, 1907, No. 3258;

And upon hearing Mr. W. R. MacInnes, chairman of the said advisory committee, representing the said railway companies, the board doth order:—

That its said order No. 3258 of July 6 be, and the same is hereby, amended by rescinding paragraph (1) of the said order;

'Provided that the adoption by the said railway companies, or any of them, of rates or tolls for freight traffic from Montreal westbound equal to those required by the said order be adopted in the reverse direction to Montreal, and the issue and putting in force of tariffs thereof shall not prejudice the said railway companies, or any of

them, to rescind or vary the said order, or to authorize any change or changes in the rates or tolls required by the said order or in such rates or tolls from Montreal westbound.'

(Sgd.) A. C. KILLAM,
Chief Commissioner,
Board of Railway Commissioners for Canada.

Re *Telephone Rates.*

After the amendment of the Railway Act by which all telephone tolls to be charged by any company having legislative authority from the parliament of Canada to construct and operate a telephone system or line were made subject to the approval of the board and to be filed with and dealt with by the board as therein provided, a special commission, composed of G. F. Shepley, K.C., Toronto; W. S. Buell, barrister, Brockville, and James Richardson, Brockville, was appointed by the Dominion government to investigate telephone tolls and to assist the board in such investigations. The board held its first sittings in this connection on 27th day of May, 1907, in the city of Montreal, and its last sittings on the 19th day of June, 1907, in the same place. A large amount of evidence was taken, and the late Chief Commissioner, A. C. Killam, K.C., was engaged in preparing the judgment of the board at the time of his death.

Investigation of Express Companies.

As stated in the Board's preceding report, the Railway Act was so amended so as to bring express companies under the jurisdiction of the Board, and providing that all express tolls are to be subject to the approval of the Board and to be filed with and dealt with by the Board as therein provided. Owing to pressure of business of the Board it was decided that a special commission should be appointed to assist the Board in investigating the rates of express companies, and the Dominion government accordingly appointed Mr. G. F. Shepley, K.C., Toronto; Mr. W. S. Buell, barrister, Brockville, and Mr. Richardson, accountant, Brockville, for such purpose. This commission was also empowered to investigate telephone tolls, and after doing so, the investigation of express tolls was taken up, and the Board held its first public sittings in this connection in the city of Montreal, Que., on the 10th day of December, 1907, Messrs. Shepley and Buell appearing as counsel to assist the Board, and the Canadian Express Company, the Dominion Express Company, and the Canadian Northern Express Company being represented by separate counsel. Owing to the illness and subsequent death of the then Chief Commissioner of the Board, A. C. Killam, K.C., no further sittings were held. In the meantime an order was made on the 26th February, 1908, on the application of the Express Traffic Association of Canada, on behalf of the express companies subject to the jurisdiction of the Board, extending the time for the filing and approval of tariffs of tolls of the express companies until the 1st day of June, 1908, upon the terms and conditions set out in the said order.

The various express companies subject to the jurisdiction of the Board, and the railway companies over which such express companies operate, were asked by the Board to define what constituted 'express traffic,' and the following circular was issued in connection therewith:—

'OTTAWA, July 11, 1907.

'*Circular No. 10.* Re *Express Traffic.*

'DEAR SIR,—Under section 352 of the Railway Act, the Board of Railway Commissioners is empowered to prescribe what is carriage or transportation of goods by express within the meaning of the Railway Act.

'I am directed to state that the Board thinks it would be advisable that "express traffic" should be defined before the express companies' tariffs are approved by the

Board, and that the Board desires to receive the views of the various companies interested as to the division which should be made between express traffic and ordinary railway traffic, and between the kinds of traffic to which express tariffs are to apply.

'The Board desires that the companies give the Board the benefit of their views upon these matters on or before the 1st of September next and suggests that, for the purpose, a conference might be had between the various intrests and some attempt made to arrive at a harmonious settlement of these questions for submission to the Board.

'Yours truly,

'(Sgd.) A. D. CARTWRIGHT,

'Secretary B.R.C.'

A number of replies have been received, and the matter is now engaging the consideration of the board.

Car Shortage.

During the first six or seven months of the year 1907 the Board was in receipt of a large number of complaints, chiefly from the western provinces, in regard to the car shortage and lack of motive power unquestionably prevailing, and to some extent intensified by the unusual climatic conditions that prevailed in the western provinces during the winter of 1906-7. The Board had previously authorized its chief traffic officer to hold investigations and make inquiries regarding the equipment of the principal railway companies operating in Canada, this action having been taken as a result of the complaints of the Dominion Millers' Association that the supply of cars for grain at the ports of transhipment on the Georgian Bay and Lake Huron was considerably short of the requirements, but owing to the fact that the Board's Chief Traffic Officer's time was very fully taken up with other matters, and the great amount of labour involved in getting the necessary information in detail, progress in this direction was necessarily slow. The Board, however, has had added to its traffic department an operating assistant to the Chief Traffic Officer, who, immediately after his appointment in April, 1907, took up and investigated a large number of complaints relating to car shortage, reference to which will be found in another part of this report. Owing to the rapid commercial growth of the country during the past ten years, the railway companies both in Canada, as in the United States and elsewhere, have been unable to keep pace with the progress made, and as a consequence the transportation problem had forced itself upon the consideration of the Board as a matter requiring prompt action, and the Board felt it necessary to take immediate steps to meet the then existing condition of affairs. The harvest of 1907 was below the average, and towards the close of the year a serious financial crisis occurred in the United States, which necessarily affected trade conditions throughout the Dominion of Canada. the result being that the car problem has assumed an altogether different aspect. On the 31st of March the surplus in car order totalled 9,077 cars according to the returns furnished to the 'Railway World.' In the United States and Canada there were on the 5th February, 1908, 342,828 idle cars. For the time being, therefore, the equipment question seems to have solved itself. The Board feels that, while it is very important that close attention be given to this subject of railway equipment, it is also very necessary to bear in mind that the railway companies cannot be expected to always have on hand at a given time in a particular locality sufficient railway stock to meet the maximum demand during 'rush seasons.' There is, however, a point up to which the railway companies should be compelled to furnish proper and adequate equipment, and it will be the object and duty of this Board to see that such necessary equipment is provided, keeping in view the future transportation requirements of the country. If the business undertakings of the country continue to increase proportionately during future years as they have done in the last decade, then

the railway companies must add largely to their tracks, cars and other transportation facilities.

Protection of Wooden Bridges.

The Board, having given careful consideration to the question of the protection of wooden bridges, issued, in pursuance of powers conferred on it by sections 30 and 269 of the Railway Act, on the 3rd July, 1907, an order providing as follows:—

No. 3239.

1. That every railway company subject to the legislative authority of the parliament of Canada, operating by steam power any railway or railways, any part or parts of which is or are constructed of or upon wooden trestles, shall during the months of May, June, July, August and September in each year, for the purpose of protecting such trestles from fire, place and keep upon every portion of its said railway or railways, where such trestles exist, watchman to the extent hereinafter required, and cause such watchmen to inspect every trestle as soon as possible after the passage of a train or locomotive over the same; provided that this clause shall not require any such watchman to discontinue the following of one train to and over any other wooden trestle on his division in the direction in which such train is going.

2. That where a track bicycle is provided for his use one watchman may be appointed for and have charge of a distance of five miles along the railway for the purposes aforesaid, but where no such bicycle is provided, a watchman shall not be appointed for and have charge of more than a distance of two and one-half miles along the railway.

3. That every such railway company supply each of such watchman and keep him supplied with two pails, and keep the same in good condition and fit for holding water.

4. That each such company place and maintain at each end of every such trestle a barrel of the capacity of not less than forty-five gallons, and that, on every trestle of over two hundred feet in length, every such company place and maintain barrels of similar capacity at distances of not more than one hundred feet apart; provided that the pile trestles crossing waterways shall not be required to be furnished with any such barrels.

5. That every such company maintain and keep every such barrel in good repair and in good condition for holding water, and cause such barrels to be kept full of water, except so far as the water shall be reasonably and properly used for the protection of the trestle or as it may be lowered by natural causes; provided that as often as the surface of the water shall be lowered in any such barrel to the extent of fifteen inches from the top of the barrel such company cause the barrel to be forthwith refilled with water.

6. That every railway company remove and keep clear from dead grass and brush the whole width of its right of way under and along every such trestle.

7. That every such watchman, from time to time when any such trestle is injured by a fire, as soon as posible report the same to the roadmaster on whose division he is working; that in the event of any such barrel or pail not being in good and efficient condition for the holding of water, every such watchman having charge of the same, as soon as possible, report such condition to the said roadmaster; that whenever the height of water in any such barrel is lowered to the extent of fifteen inches from the top of the barrel, every such watchman as soon as possible report such condition to the said roadmaster.

8. That every such railway company failing or neglecting to comply with any of the foregoing regulations be subject to a penalty of fifty dollars.

9. That every watchman failing or neglecting to make inspection of any such trestle in accordance with the foregoing regulations, or failing or neglecting to make

any of the reports hereinbefore required of him when and as so required, be subject to a penalty of twenty dollars for each such failure or neglect.

This order was subsequently amended on the 13th August, 1907, by providing that it should not go into effect or operation during the then calendar year except as respects trestle bridges of the length of 200 feet or more. It may transpire tha modifications of the order may be found necessary, but in the meantime the board hopes that the effect of the order will be to give the necessary protection to the travelling public as well as to the employees of the railway companies.

Fire Protection Appliances.

The Board having had under consideration for some time the question of the equipment of locomotive engines with fire protective appliances and having had the matter investigated and reported upon by certain of its officers, pursuant to the powers conferred on it by sections 30 and 269 of the Railway Act, issued an order proceeding as follows:—

1. Every railway company subject to the legislative authority of the parliament of Canada operating any railway by steam power shall cause every locomotive engine used on the railway, or portion of railway operated by it, to be fitted and kept fitted with netting mesh as hereinafter mentioned, namely:—

(a) On every engine equipped with an extension smoke box, the mesh to be not larger than 2½ x 2½ per inch of No. 10 Birmingham wire gauge, and to be placed in the smoke box so as to extend completely over the aperture through which the smoke ascends—the openings of the said mesh not to exceed a quarter of an inch and one-sixty-fourths of an inch to the square inch.

(b) On every engine equipped with a diamond stack the mesh is not to be more than 3 x 3 per inch of No. 10 Birmingham wire gauge, and to be placed across the top of the stack so as completely to cover the same, the openings of the said mesh not to exceed three-sixteenths of an inch and one-sixty-fourth of an inch to the square inch.

2. Every railway company subject to the legislative authority of the parliament of Canada operating any railway by steam power shall cause:—

(a) The openings at the back of the ashpans on every locomotive engine used on the railway, or portion of railway operated by it, to be covered, when practicable, with heavy sheet iron dampers, or, if not practicable, with screen netting dampers 2½ x 2½ per inch of No. 10 Birmingham wire gauge, such dampers to be fastened either by a heavy spring or a split cotter and pins.

(b) Overflow pipes from the injectors to be put into the front and back part of the ashpans and used during the months of April, May, June, July, August, September, and October.

3. Every railway company subject to the legislative authority of the parliament of Canada shall provide inspectors at terminals where its locomotive engines are housed and repaired, and cause them, in addition to the duties to which they may be assigned by the officials of the railway companies in charge of such terminals:—

(1) To examine at least once in every week:—

(a) The nettings.

(b) Dead plates.

(c) Ashpans.

(d) Dampers.

(e) Slides, and

(f) Any other fire protective appliance or appliances used on any an dall engines running into the said terminals.

(2) To keep a record of every such inspection in a book to be furnished by the rai-l way company for the purpose, showing:—

(a) The number of the engines inspected.

(b) The date of such inspection; and

(c) The condition of the said fire protective arrangements and appliances.

4. No employee of any such railway company shall:—

(a) Do, or in any way cause, damage to the netting on the engine smokestack or to the netting in front of such engine;

(b) Open the back dampers of the engine while running ahead; or

(c) Otherwise do or cause damage or injury to any of the protective appliances used on the said engines.

5. Every such railway company allowing or permitting the violation of, or in any other respect contravening or failing to obey the foregoing regulations, shall be subject to a penalty of twenty-five dollars for every such offence.

6. Every such employee contravening or failing to obey the said regulations, or any of them, shall be subject to a penalty of fifteen dollars for every such offence.

7. No railway company subject to legislative authority of the parliament of Canada shall burn lignite coal on its locomotive engines as fuel for transportation purposes until such time as the board shall otherwise order or direct. Lignite coal includes all varieties of coal, the properties of which are intermediate between wood and coal of the older formations. Every such railway company burning, or permitting to be burned, lignite coal on its locomotive engines in contravention of the regulation herein in this behalf shall be subject to a penalty of twenty-five dollars.

8. Every railway company subject to the legislative authority of the parliament of Canada operating a railway by the power of steam, in the province of Saskatchewan, shall establish and maintain along the line of railway where the same passes through prairie country in the said province, on each side of such line of railway and of not less than three hundred feet in width from the centre of the railway, a good and sufficient fireguard to be made by ploughing the land to the extent of not less than sixteen feet in width on the side of the fireguard farthest from the railway, and by burning or otherwise freeing from inflammable materials the spaces between such ploughing and such line of railway.

9. Every railway company subject to the legislative authority of the parliament of Canada operating a railway by the power of steam, in the province of Alberta, shall establish and maintain along the line of railway where the same passes through prairie country in the said province, on each side of such line of railway and of not less than three hundred feet in width from the centre of the railway, a good and sufficient fireguard to be made by ploughing the land to the extent of not less than sixteen feet in width on the side of the fireguard farthest from the railway, and by burning or otherwise freeing from inflammable materials the spaces between such ploughing and such line of railway.

10. Every such company shall, at all times, keep such fireguards free from weeds and other inflammable material, and in such condition as not to allow fire to spread thereon and therefrom through coals, cinders or sparks falling from or emitted by engines upon its railway.

11. Provided, that no such railway company shall be bound to enter upon the lands of another for any of the purposes aforesaid without the consent of the owner of the said lands, unless such company can lawfully do so without being liable to make compensation thereof; provided, also, that the said railway companies shall not be required to establish and maintain such fireguards where the nature of the country renders it impossible to do so, or where the doing so would involve serious loss and damage to property—all such places and portions of line or lines to be specifically described and reported to the board.

12. The fireguards herein provided for to be completed on or before the 1st day of September of the present year, and after this year, on or before the 1st day of August in each year, and in other respects these regulations shall take effect and be operative on and from the 1st day of September next.

13. These regulations shall not have effect during the months of December, January, February or March in any year.

14. Every railway company subject to the legislative authority of the parliament of Canada disobeying or failing to comply with the provisions of these regulations shall be liable to a penalty of one hundred dollars for every such disobedience or failure to comply with the provisions of these regulations respecting fireguards.

Judgments of the board.

The summary of the principal judgments delivered by the board covering the year ending March 31, 1908, prepared by the law clerk, Mr. A. G. Blair, will be found in Appendix 'D.'

ROUTINE WORK OF THE BOARD.

Record Department.

Since the publication of the last report three clerks have been added to the staff of the record department of the Board. This addition was rendered necessary owing to the steady increase in the number of applications and the additional work entailed by the placing of telephone rates and express companies' tolls under the jurisdiction of the board. More commodious quarters have been provided for the staff of the record department, but even with the additional room the space allotted is taxed to its fullest capacity. As referred to in a previous report, this department is under the supervision of the Secretary of the Board, who, under the Board's authority, has delegated the working out of all details in this connection to Mr. A. E. Ecclestone, secretary to the secretary, who has proved himself an able and valuable assistant. By reference to the subjoined table it will be seen that the number of applications, filings and orders shows a very marked increase over that of the past year, and attention might here be drawn to the uniformity of such increases.

With regard to the cases heard by the board at sittings during the year covered by this report, it might be mentioned that 30,000 folios of testimony were taken by the board at these sittings.

The following is a table of formal applications and informal complaints received under the Act, documents filed, and orders issued by the board, compared with those of the year ending March 31, 1907:—

—	April 1, 1906 to March 31, 1907.	April 1, 1907 to March 31, 1908.	Increase.
Applications (including informal complaints)	2,936	3,125	189
Filings	26,933	45,425	18,492
Orders	1,741	1,787	46

It should here be noted that under the heading of applications in report ending March 31, 1908, is included informal complaints, a list of which will be found under Appendix 'E.'

Traffic Department.

Since the issuance of the last report there has been an addition of four clerks to this department. This increase was in a large measure due to the fact that the express companies and telephone companies are now under the jurisdiction of the board. Additional space has also been provided by the removal of the storeroom to the basement of the building occupied by the board and the taking down of the parti-

tion separating the storeroom from the traffic department. The additional space furnished does ont, however, altogether meet the requirements, and the room is only lighted from one end, rendering it necessary to use artificial light at the rear end of the room a greater part of the year.

In connection with this department the recommendation of the board for the appointment of an operating assistant to the Chief Traffic Officer, whose duty it is to assist him in obtaining necessary information in regard to the equipment, station accommodation, &c., of the various railway companies subject to the jurisdiction of the board, has been carried out by the appointment of Mr. A. F. Dillinger, whose report showing the work done since the date of his appointment, on April 12, 1907, to March 31, 1908, will be found under Appendix 'I.' The necessity for such an appointment is amply set evidenced by the work accomplished by Mr. Dillinger as set forth in detail of report.

A statement of the freight, passenger, telephone and express schedules filed with the board between April 1, 1907, and March 31, 1908, will be found in conjunction with the report of the chief traffic officer of the board under Appendix 'B.'

Engineering Department.

The board has had under consideration the appointment of an additional engineer to this department, as it has been found, under existing conditions, undesirable to have the chief engineer absent from headquarters to any considerable extent. Under the present disposition of the staff Mr. H. A. K. Drury, second assistant engineer, has his headquarters at Winnipeg, Manitoba, leaving the work at headquarters to be conducted by the chief engineer, Mr. G. A. Mountain, and first assistant engineer, Mr. T. L. Simmons, and, as not frequently happens, in connection with the work of this department, both the chief engineer and assistant engineer are absent from the city at the same time, causing inconvenience and delay in the transaction of the board's business in connection with this department. A list of the examinations and inspections made by the engineering department for the year ending March 31, 1908, will be found in Appendix 'F.'

Accident Department.

As pointed out in previous reports, the board found it impossible for one man to make anything like an investigation of all railway accidents throughout the Dominion of Canada, and the board therefore has added to its staff two assistant inspectors of accidents, Mr. M. J. McCaul and Mr. Jas. Clark, the latter being located at Winnipeg, Manitoba, and having the territory from Fort William, Ontario, west to the Pacific coast under his immediate supervision. The number of investigations held in regard to accidents is large and consequently considerable expense is entailed. The Board has under contemplation the reorganization of this department with a two-fold object in view. Firstly, greater promptness in dealing with accidents and the cause of their occurrence; and, secondly, in reducing the expenses connected with the holding of such investigations. The Board has no doubt about the necessity existing for this department, but it has felt that an adequate return was not being given for the money expended in connection with it. The Board hopes, however, that it will be able to place the department on a more effective basis during the coming year. The report of the accidents investigated, covering the year ending March 31, 1908, will be found in Appendix 'G,' in conjunction with the report of the chief inspector of accidents.

It will be noted that the number of persons killed and injured, including passengers and employees, on railways operating in Canada subject to the jurisdiction of the board, for the year ending 31st March, 1908, shows a heavy increase over the corresponding period for the year ending 31st March, 1907. In the case of railway employees the increase in the number injured is over 150 per cent. This is a state

of affairs that calls for the immediate attention of the board with a view to ascertaining what measures can be adopted by the railway companies to reduce the existing dangers to life and limb of their employees. How far such accidents are due to neglect on the part of employees to observe the rules of the companies and how far they are attributable to the lack of adequate protection given by the companies themselves, is a matter that is now engaging the consideration of the board in connection with the 'Uniform Code of Train Rules for all Canadian Railways.'

Derailments and head-on collisions are accountable for about 40 per cent of the total number of casualties, as will appear from the report of the board's inspector of accidents. The installation of the block system by the railway companies would no doubt prove the most comprehensive measure as respects collisions, and it might here be stated that this has been the experience of the Interstate Commerce Commission of the United States as a result of investigations extending over a series of years.

Railway Equipment and Safety Appliance Department.

This department is presided over by Mr. Jas. Ogilvie, inspector of railway equipment and safety appliances, assisted by Mr. W. S. Blyth, assistant inspector. Mr. Jas. Clark also performs certain duties in connection with his other duties as inspector of accidents, the Board not having deemed it advisable at present to have an additional inspector for such purpose residing at Winnipeg. The Board has no doubt about the desirability of having officials to inspect and report upon the condition of the rolling stock of the various railways subject to the Board's jurisdiction, as well as to make suggestions from time to time to the Board in connection therewith, both as to the protection of the public and the protection of the employees of the railway companies. As in the accident department, so in the equipment department, the time that elapses between the inspection, the making of the report and the action on the matter by the board must of necessity be long deferred. Some means will have to be found for disposing more promptly of reports in reference to defective equipment. The Board has this matter under consideration and possibly a solution may be found by conferring on its officers the power to direct that defective equipment may be set aside without the necessity of referring the matter to the Board as at present. The Board understands that this is the practice adopted by the Interstate Commerce Commission.

Obituary.

It is with deep regret that this Board has to announce the death of its late chief commissioner, Albert Clements Killam, K.C., who succumbed at Ottawa on the 1st of March, 1908, after a brief illness to an attack of pneumonia. An able jurist, he brought with him the ripened experience of years of service on the bench of the Manitoba courts and finally in the Supreme Court of Canada, which particularly fited him for the discharge of the duties connected with the office of chief commissioner of this board. During the three years with which he was connected with the board, Mr. Killam never spared himself and was untiring and indefatigable in his efforts to carry into effect the purposes for which this Board was created. At all times courteous and considerate to those who were brought in contact with him in the discharge of his official duties, he earned the respect and esteem of all. His judgments, which are on record in the various reports of the Board already issued, indicate that Mr. Killam realized that the Railway Act was 'on trial,' and that it was well to proceed carefully and cautiously. He felt that when action was taken by the board, there should be, as far as possible, no uncertainty in regard to the propriety and correctness of such action. The Board feels that it is difficult to express in words a just appreciation of the services rendered by its late chief commissioner.

The vacancy caused by his death has been filled by the appointment on the 28th of March, 1908, of the Honourable James Pitt Mabee, who resigned office as judge of the High Court of Justice, Ontario, to become Chief Commissioner.

(Sgd.) J. P. MABEE,
Chief Commissioner,

M. E. BERNIER,
Deputy Chief Commissioner,

JAMES MILLS,
Commissioner.

March 31, 1908.

APPENDIX 'A.'

Staff of the Board of Railway Commissioners for Canada for the year ending March 31, 1907.

TRAFFIC DEPARTMENT.

Name.	Occupation.	Appointment.	Amount.
James Hardwell	Traffic Expert	June 22, 1904	$ 3,800 00
A. F. Dillinger	Operating Assistant	April 6, 1907	1,800 00
G. A. Brown	Chief Clerk	June 22, 1904	2,000 00
C. E. McManus	Clerk	Sept. 1, 1904	1,050 00
C. C. Routhier	"	Aug. 14, 1906	1,050 00
C. N. Ham	"	Oct. 3, 1904	1,000 00
H. W. Messinger	"	July 8, 1904	950 00
J. S. Allen	"	May 6, 1907	900 00
G. T. Riddell	"	May 1, 1905	800 00
F. Lalonde	"	May 6, 1905	900 00
J. R. Usher	"	May 6, 1907	750 00
C. Chapman	"	April 11, 1907	600 00
			$ 15,620 00

ENGINEERING DEPARTMENT.

G. A. Mountain	Chief Engineer	June 30, 1904	$ 4,800 00
T. L. Simmons	First Asst. Engineer	Oct. 3, 1904	2,500 00
H. A. K. Drury	Second " "	June 25, 1906	2,500 00
John Murphy	Electrical "	May 15, 1906	1,500 00
J. R. Foulds	Clerk	Aug. 14, 1906	700 00
			$ 12,000 00

RECORD DEPARTMENT.

J. W. Thomson	Chief Clerk	Sept. 1, 1904	$ 1,150 00
C. S. Huband	Clerk	May 1, 1905	900 00
W. A. Jamieson	"	Aug. 14, 1906	750 00
J. B. Arbick	"	Dec. 23, 1904	700 00
J. E. Martin	"	May 6, 1907	700 00
T. G. Vitton	"	May 6, 1907	700 00
D. I. Langelier	"	July 20, 1904	650 00
F. R. Demers	"	Aug. 14, 1905	600 00
			$ 6,150 00

ACCIDENT DEPARTMENT.

E. C. Lalonde	Inspector of Accidents	July 20, 1904	$ 2,200 00
M. J. McCaul	Asst. Inspector of Accidents	May 6, 1907	1,500 00
James Clarke	" " "	May 6, 1907	1,700 00
A. Lapointe	Clerk	May 6, 1907	700 00
			$ 6,100 00

EQUIPMENT AND SAFETY APPLIANCE DEPARTMENT.

Name.	Occupation.	Appointment.	Amount.
James Ogilvie	Inspector of Railway Equipment and Safety Appliances	May 4, 1907	$ 2,200 00
W. S. Blyth	Assistant Inspector	May 6, 1907	1,500 00
			$ 3,700 00

SECRETARY'S DEPARTMENT.

A. E. Ecclestone	Secretary to Secretary	Aug. 14, 1906	$ 1,100 00
G. F. Perley	Clerk	Jan. 2, 1908	600 00
E. A. H. Barber	Stenographer	May 8, 1907	550 00
			$ 2,250 00

LAW DEPARTMENT.

A. G. Blair	Law Clerk	July 20, 1904	$ 2,500 00
R. Larose	Stenographer and Librarian	May 1, 1905	750 00
			$ 3,250 00

ACCOUNTING DEPARTMENT.

E. A. Primeau	Registrar and Accountant	May 7, 1904	$ 2,100 00

PRIVATE SECRETARY TO CHIEF COMMISSIONER.

R. Richardson		May 1, 1905	$ 1,600 00

STENOGRAPHERS.

L. M. Cameron		July 20, 1904	$ 700 00
M. Hache		Dec. 31, 1907	500 00
B. Chevrier		July 20, 1904	900 00
L. J. Lewis		May 7, 1904	750 00
			$ 2,850 00

MESSENGERS.

T. Chandler	Chief Messenger and Court Usher	May 7, 1904	$ 800 00
J. Dionne		May 27, 1907	500 00
T. D. Latour		Dec. 31, 1907	500 00
			$ 1,800 00

CAR ACADIA.

G. Taylor	Cook		$ 720 00

APPROPRIATIONS, EXPENDITURES AND RESOURCES.

Appropriations.		Expenditure during 12 months from Apr. 1, 1907	Unexpended Balance.
Amount allowed by Statute for salaries of Members of Commission	$30,000.00	$ 28,166.63	$ 1,833.37
Amount voted by Parliament for Maintenance and Operation of the Board	90,000.00	86,504.79	3,495.21
Amount voted by Parliament to pay expenses in connection with refereuce to cases before Railway Commission	10,000.00	9,007.80	992.20

Certified correct,

EUG. A. PRIMEAU,

Registrar and Accountant.

OTTAWA, June 1, 1908.

APPENDIX B.

OTTAWA, May 29, 1908.

SIR,—I have the honour to submit the report of the traffic department of the Railway Commission to March 31, 1908.

Subjoined is a statement of the freight, passenger, express and telephone schedules filed with the board between November 1, 1904, when, by order of the board, under the authority of section 311 of the Railway Act, 1903, the railway companies commenced filing their tariffs, and March 31, 1908, and from April 1, 1907, to March 31, 1908, inclusive:—

GRAND TOTAL OF ALL SCHEDULES RECEIVED FROM NOVEMBER 1, 1904, TO AND INCLUDING MARCH 31, 1908.

Freight :—			
Local tariffs	2,366		
supplements	2,956		
		5,322	
Joint tariffs	4,083		
supplements	8,725		
		12,808	
International tariffs	16,535		
supplements	38,669		
		55,204	
			73,334
Passenger :—			
Local tariffs	1,792		
supplements	941		
		2,733	
Joint tariffs	835		
supplements	592		
		1,427	
International tariffs	3,732		
supplements	2,373		
		6,105	
			10,265
Express :—			
Local tariffs	1,668		
supplements	3,856		
		5,524	
Joint tariffs	697		
supplements	1,296		
		1,993	
International tariffs	1,432		
supplements	269		
		1,701	
			9,218
Telephone :—			
Local tariffs	655		
supplements	372		
		1,027	
Long distance tariffs	1,086		
supplements	364		
		1,450	
International tariffs	300		
supplements	871		
		1,171	
			3,648
Combined totals, all schedules			$ 96,465

TARIFFS AND SUPPLEMENTS RECEIVED FROM APRIL 1, 1907, TO AND INCLUDING MARCH 31, 1908.

Freight:—			
Local tariffs	606		
supplements	834		
		1,440	
Joint tariffs	1,216		
supplements	2,887		
		4,103	
International tariffs	4,139		
supplements	12,572		
		16,711	
			22,254
Passenger:—			
Local tariffs	641		
supplements	410		
		1,051	
Joint tariffs	292		
supplements	339		
		631	
International tariffs	1,079		
supplements	1,067		
		2,146	
			3,828
Express:—			
Local tariffs	1,668		
supplements	3,856		
		5,524	
Joint tariffs	697		
supplements	1,296		
		1,993	
International tariffs	1,432		
supplements	269		
		1,701	
			9,218
Telephone:—			
Local tariffs	655		
supplements	372		
		1,027	
Long distance tariffs	1,086		
supplements	364		
		1,450	
International tariffs	300		
supplements	871		
		1,171	
			3,648
Combined totals, all schedules			38,948

The following are the more important orders and regulations relating to traffic issued by the board to March 31, 1908, viz.:—

March 9, 1904.—Order permitting railway companies to continue their reduced fares to clergyman; also to students of universities, colleges and schools, to and from their homes.

June 28, 1904.—Reduction ordered in the rates on oiled clothing, in carloads, from Toronto to Halifax, Winnipeg and Calgary.

July 16, 1904.—Canadian Freight Classification No. 12, with supplement No. 1 and ruling circular No. 1, approved.

July 30, 1904.—Order reducing rates on cooperage stock in carloads.

July 30, 1904.—Railway companies ordered to cease charging prohibitive rates on cedar lumber, ties, &c., and to substitute tolls which shall not discriminate between cedar and other woods; also to amend the Canadian Freight Classification by including rails, fence posts, telegraph poles, and ties with other forest products, instead of carrying these commodities as formerly by 'special contract' only.

July 30, 1904.—Railway companies directed to reduce their rates on glass bottles, in carloads, from Wallaceburg, Ont., to Toronto, Hamilton, Berlin, London and Montreal.

October 3, 1904.—Order regarding special rates on material and machinery for new industries. Companies directed to report applications to the board, which will deal with each on its merits.

October 3, 1904.—Application of Grand Trunk Railway Company for permission to charge a less rate on coal to Cobourg, Ont., for manufacturing purposes than charged to ordinary consumers and dealers declined.

October, , 1904.—Reduction ordered in the rates on coal from the Niagara and Detroit frontiers to Almonte, Ont.

October 10, 1904.—Application of the United Factories for a special rate on logs, Penetanguishene to Newmarket, Ont., declined.

October 10, 1904.—Order revising and reducing the classification of fruit and prescribing a maximum charge for icing fruit cars in transit.

October 10, 1904.—Order reducing rates on split peas, for export, to the same basis as flour, for export.

October 31, 1904.—Railway companies directed to desist from charging higher rates on cedar lumber from the mills in British Columbia than charged on pine, fir and spruce.

December, 29, 1904.—Disallowance of certain advanced freight tariffs on grain products from Ontario to the Maritime Provinces, which had been issued without legal notice. Companies directed to make restitution to shippers.

February 9, 1905.—Conditions prescribed under which railway companies may make and report to the board special rates in certain cases, under section 275 of the Railway Act, 1903.

February 9, 1905.—Order prescribing under what circumstances the board will receive telegraphic notices of proposed changes in freight rates under emergency conditions.

February 9, 1905.—Canadian Northern Railway Company authorized to carry material and machinery for new industrial works at Fort Frances, Ont., at reduced rates.

March 6, 1905.—Lower rates ordered on cattle from Ontario points to Montreal, St. John, West St. John and Portland, for export, so as to bring them more into harmony with those paid by United States shippers.

April 15, 1905.—Railway companies ordered to discontinue charging higher rates on grain between local points in Ontario and Quebec than charged on flour and other grain products between the same points.

June 2, 1905.—Preferential coal rates from Port Stanley and Rondeau, Ont., ordered discontinued.

July 5, 1905.—Restoration ordered of rates formerly charged on metallic shingles, the increase of which had checked shipments.

July 13, 1905.—Cartage and other allowances by railway companies to shippers to offset disadvantages of location ordered discontinued, unless published in the companies' tariffs.

July 25, 1905.—Grand Trunk Railway Company ordered to provide reasonable and proper facilities for the interchange of traffic at London, Ont., and its tolls prescribed for switching traffic to and from the Canadian Pacific Railway.

July 25, 1905.—Reduction ordered in rates from Ontario on all freight traffic to Montreal, Quebec, and the Atlantic seaboard for export.

September 5, 1905.—Railway companies required to place their rates on coal from frontier ports of entry, and lake ports, to interior points in Ontario on an equal mileage basis.

————, 1905.—Equalization of freight rates ordered to points between North Bay and Sault Ste. Marie, Ont., as between Toronto and Collingwood shippers.

September 19, 1905.—Order reducing rate charged at New Westminster, B.C., for switching grain to the distillery at Sapperton, and prescribing switching tolls within the New Westminster terminals.

October 14, 1905.—Reduced rates prescribed on stone from Manitoba quarries to Winnipeg.

October 14, 1905.—Reduced rates prescribed on stone from Manitoba quarries to ordered to interchange carload freight without transhipment at Winnipeg and St. Boniface, Man., for shipment from, or delivery at, those points.

October 31, 1905.—Reduced rates ordered on beans, in carloads, from shipping points in Ontario.

November 15, 1905.—Provision made for the fair distribution of empty cars at Lake Huron and Georgian Bay ports for the movement of Northwest grain during car shortage.

November 28, 1905.—Interchange facilities ordered at Lindsay, Ont., between the Grand Trunk and Canadian Pacific Railways, and tolls prescribed for switching local traffic.

December 14, 1905.—Reduced rates prescribed on extra-compressed hay and fodder, in carloads, from Grand Trunk and Canadian Pacific Railway stations in Quebec to Atlantic ports north of and including Boston, for export.

December 14, 1905.—Ordered that rates on grain and grain products, in carloads, from points west of Montreal to and including Cornwall and Finch, Ont., and south of the St. Lawrence in the counties of St. Johns, Laprairie and Napierville, Chateauguay and Huntingdon, to points east of Lévis, Que., shall not exceed the rates from Montreal to the same points by more than 2 cents per 100 lbs., nor by more than the differences existing at date of order.

January 6, 1906.—New car service or 'demurrage' rules, more favourable to the public than the old, promulgated by the board for use on all railways subject to its jurisdiction.

February 14, 1906.—Order reducing the rate charged by the Red Mountain Railway Company for switching ore at Rossland, B.C., for the Trail smelter.

February 14, 1906.—Reduction ordered in the rate on grain, in carloads, from the Canadian Pacific Railway's elevator at Owen Sound to unloading sidings within the company's terminals at the same place.

February 19, 1906.—Canadian Northern Railway Company directed to replace the siding to Messrs. Robinson & Son's coal and wood yard at Winnipeg, which had been removed.

March 24, 1906.—Reduced minimum carload weights prescribed for freight loaded in box cars longer than the standard length of 36 feet 6 inches.

March 24, 1906.—Additions ordered to the articles which may be shipped in mixed carloads at carload rates.

March 24, 1906.—Reductions in minimum chargeable weight for light and bulky articles requiring platform cars for carriage.

May 21, 1906.—Promulgation of additional regulations relating to the publication and filing of freight and passenger tariffs.

June 6, 1906.—The minimum carload weight of charcoal authorized by the Canadian Freight Classification not to be exceeded in commodity tariffs. Revision of commodity rates from Sault Ste. Marie ordered accordingly.

June 29, 1906.—Reduced rates ordered on packing-house products, in carloads, from packing points in Ontario to Montreal, for export.

July 18, 1906.—Tolls prescribed to be charged by the Canadian Pacific Railway Company for switching traffic interchanged with the Grand Trunk Railway Company for loading or unloading at London, Ont.

July 19, 1906.—Authority granted the Dominion Atlantic Railway Company to charge the express rate on fresh fish on special freight trains making express time, Halifax to Yarmouth, N.S., for export to Boston, when so consigned, and in quantities beyond the handling capacity of the express company.

July 31, 1906.—Renewal of the Montreal to Toronto westbound rate ordered on wall paper from Toronto to Montreal and Ottawa, and as the maximum to intermediate points, with corresponding reductions to points east of Montreal.

August 1, 1906.—Order, supplementing order of July 30, 1904, requiring the carriage of railway ties to Canadian points at rates not exceeding the non-competitive special tariff rates on common lumber; also to United States joint rate points. Order of July 30, 1904, against the Kingston and Pembroke Railway Company made applicable to all railway companies.

August 11, 1906.—Railway companies ordered to abolish the additional arbitrary rate of 5 cents per 100 lbs. hitherto charged to British Columbia coast points on transcontinental traffic from eastern Canada; also to substitute the minimum carload weights of the Canadian Freight Classification for the higher minima previously charged on the said traffic when loaded in cars longer than the standard car of 36 feet 6 inches; also to reduce the weight allowance on lumber used for bracing, or otherwise safeguarding carload shipments of the said transcontinental traffic requiring such protection, to the basis allowed elsewhere in Canada.

October 13, 1906.—Supplement No. 7 to Canadian Freight Classification No. 12 approved.

October 13, 1906.—Nelson and Fort Sheppard and Canadian Pacific Railway Companies ordered to furnish adequate and suitable accommodation and facilities for the carriage and interchange of lumber, shingles, &c., from Salmo and Ymir, B.C., to eastern Canadian points.

November 9, 1906.—Rates reduced and prescribed on freight traffic to rail points and lake ports of call in the districts of Kootenay and Yale, B.C.

November 12, 1906.—Supplement No. 8 to Canadian Freight Classification No. 12 approved.

November 13, 1906.—Express companies' forms of contract temporarily approved, pending enquiry.

November 16, 1906.—Order, amending order of February 14, 1906, regarding switching tolls to be charged by the Red Mountain Railway Company at Rossland, B.C.

November 19, 1906.—Promulgation of regulations relating to the publication and filing of express tariffs.

November 19, 1906.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1906, on joint application of the said railway companies and exporters.

December 16, 1906.—Promulgation of regulations relating to the publication and filing of tariffs of telephone tolls.

February 15, 1907.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1906, on joint application of the said railway companies and exporterers.

March 13, 1907.—Reduced rate prescribed on logs, in carloads, from Brule Lake, Ont., to Renfrew, Ont.

March 18, 1907.—Canadian Pacific and Grand Trunk Railway Companies ordered to reduce their passenger rates on all their lines in Canada, east of and including the line of the Calgary and Edmonton Railway Company, to a maximum basis of 3 cents per mile.

April 11, 1907.—Approval of supplement No. 8 to Canadian Freight Classification No. 12.

April 12, 1907.—Telephone companies directed to file particulars of any free service or tolls lower than the published tariff tolls allowed by the Board granted by them; also particulars of cases in which the service of the companies is given wholly or partly for considerations other than monetary payments.

April 24, 1907.—Extending the time fixed in order of December 18, 1906, to July 1, 1907, for the filing and approval of tariffs of express tolls.

May 22, 1907.—Granting leave to the St. John Ice Company to institute legal proceedings against the New Brunswick Southern Railway Company for permitting

W. E. Scully to obtain lower rates of transportation than authorized or in force, and for transporting ice at less than the published toll, in violation of the Railway Act.

May 23, 1907.—Further extending time for the filing and approval of express companies' tariffs until August 1, 1907.

May 23, 1907.—Time fixed by order of November 13, 1906, extended to August 1, 1907, authorizing the use of contracts, conditions, by-laws and regulations of express companies.

May 30, 1907.—Authorizing the Canadian Pacific Railway to grant reduced rate from British Columbia points to Montreal and return to members of Bisley team.

June 4, 1907.—Authorizing the Niagara, St. Catharines and Toronto Railway Company to reissue its standard freight tariff with such additional mileages as are required to cover extensions to Welland and Niagara-on-the-Lake, and dismissing application of the company to conform to the Canadian Freight Mileage Tariff by advancing certain of the rates previously in force on the older lines.

June 7, 1907.—Extending the time for the approval of the Bell Telephone Company's tariffs of tolls until August 13, 1908.

June 11, 1907.—Additional extension of time for approval of tariffs of express companies to November 1, 1907, authorized.

June 22, 1907.—Approving form of general certificate of concurrence by express companies in Canada in joint tariffs of international express freight rates from points in the United States.

June 25, 1907.—Directing the Grand Trunk Railway Company to furnish cars and all proper facilities for receiving, loading and transporting import traffic received over the wharfs at Montreal, irrespective of cartage companies through whom the traffic is ordered.

June 29, 1907.—Approving Canadian Freight Classification No. 13. (See Appendix .)

July 2, 1907.—Ordering that the rate on imported iron and steel, in carloads, from Montreal harbour to Simplex Railway Appliance Company at Blue Bonnets be 2½ cents per 100 lbs., including the service of checking the goods from the carter to the car.

July 3, 1907.—Approving Supplement No. 9 to Canadian Freight Classification No. 12.

July 4, 1907.—Requiring railway companies to furnish the board with certain information regarding junction points and joint tariffs, preparatory to the consideration of joint tariffs generally.

July 5, 1907.—The Grand Trunk Railway Company ordered to issue third-class tickets at 2 cents per mile, and to run third-class carriages daily between Toronto and Montreal.

July 6, September 23, November 13, 1907.—International rate order. The Grand Trunk, Canadian Pacific, Michigan Central, Pere Marquette, Wabash, Toronto, Hamilton and Buffalo, and the Canadian Northern Ontario Railway Companies ordered to revise and republish their special local class freight tariffs (known as 'town tariffs') in the territory east of and including North Bay, and east of the Georgian bay, Lake Huron and the St. Clair and Detroit rivers, and south of the Ottawa river, on a uniform and modified mileage scale prescribed by the board; also to revise and republish their through freight rates from central and western Ontario to eastern Canadian points, the maximum rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river, not to exceed the rates on international traffic from Detroit and Port Huron to the same points; the revised rates to become effective not later than January 1, 1908. (See Appendix .)

July 6, 1907.—Requiring the railway companies to furnish to the board various particulars relating to their traffic operations, not covered by section 375 of the Railway Act.

July 17, 1907.—Authorizing the Canadian Pacific Railway Company to provide rates to British Columbia coast terminals on grain and mill stuffs, for export to Asia, by the issue of special rate notices.

July 26, 1907.—Standard passenger rate of Alberta Railway and Irrigation Company reduced to 4 cents per mile. Company also required to furnish return tickets for transportation of passengers at one and two-third times single fare.

August 6, 1907.—Vancouver, Westminster and Yukon Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accommodation and facilities for the carriage of traffic from points on the V. W. and Y. Ry., to points on the Canadian Pacific Railway.

August 6, 1907.—Crow's Nest Southern Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accommodation and facilities for the carriage of traffic from points on the Crow's Nest Southern to points on the Canadian Pacific Railway.

November 1, 1907.—Extending to March 1, 1908, the time for filing and approval of the Bell Telephone Company's tariffs of tolls.

November 1, 1907.—Further extension of time to May 1, 1908, authorizing the use of existing contracts, conditions, by-laws and regulations of express companies.

November 1, 1907.—Extending the time for the filing and approval of the tariffs of tolls of the express companies to March 1, 1908.

November 1, 1907.—Extending the time for the filing and approval of the North American Telegraph Company's tariffs of tolls to March 1, 1908.

November 4, 1907.—The Grand Trunk Railway Company ordered to reduce its rates from Rouse's Point, N.Y., to Coteau Junction and St. Polycarpe, P.Q., to 80 cents per gross ton on anthracite and 70 cents on bituminous coal.

November 21, 1907.—Requiring the Grand Trunk Railway Company to change its tariff C.R.C. No. E 425 so that the tolls to be charged upon the class of paper covered by said tariff from Merritton, St. Catharines and Thorold to Montreal shall not be greater than the rates published therein from Brantford to Montreal.

November 22, 1907.—Temporarily approving the bills of lading, contracts, &c., of the National and American Express Companies until March 1, 1908.

November 22, 1907.—Temporarily approving the bills of lading, contracts, &c., of the United States and Great Northern Express Companies until March 1, 1908.

December 10, December 28, 1907; January 15, January 30, 1908.—Orders relating to arrangements for proper connections for passenger and mail traffic at Brockville, to be furnished by the Grand Trunk and Canadian Pacific Companies.

December 17, 1907.—Temporarily approving the Pacific Express Company's contract forms until March 1, 1908.

December 19, 1907.—Approving certain traffic forms of the Maritime Express Company until March 1, 1908.

December 19, 1907.—Approving forms of contract of the transportation of live stock of the Nelson and Fort Sheppard, Vancouver, Victoria and Eastern and the Red Mountain Railways.

January 30, 1908.—Authorizing the Chairman of the Official Western and Southern Classification Committees to file with the Board copies of their freight classifications and supplements on behalf of United States railway companies which file international freight tariffs governed by these classifications.

February 26, 1908.—Extending till June 1, 1908, the time within which the North American Telegraph Company shall file and receive approval of its tariffs of tolls.

February 26, 1908.—Extending till June 1, 1908, the time within which the Bell Telephone Company shall file and receive approval of its tariffs of tolls.

February 26, 1908.—Extending till June 1, 1908, the time within which express companies in Canada shall file and receive approval of their tariffs.

Certain standard freight tariffs of the undermentioned companies have been approved by the Board in accordance with section 327, the Railway Act, as follows:—

June 21, 1906.....Tillsonburg, Lake Erie & Pacific Ry.
August 26, 1906.....
November 19, 1906.....Klondike Mines Ry.
October 3, 1906.....Chatham, Wallaceburg & Lake Erie Ry.
December 5, 1906.....Brandon, Saskatchewan & Hudson Bay Ry.
December 26, 1906.....Canadian Pacific Ry., Nicola Branch.
February 4, 1907.....Vancouver & Lulu Island Ry.,(operated by the British Columbia Electric Ry. as Agents for the Canadian Pacific Ry.)
April 11, 1907.....St. Maurice Valley Ry.
April 19, 1907.....Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company.
May 21, 1907.....Canadian Northern Quebec Ry.
September 5, 1907.....Alberta Railway & Irrigation Co.
October 4, 1907.....Windsor, Essex & Lake Shore Rapid Ry.
October 4, 1907.....
October 11, 1907.....
December 24, 1907.....Grand Trunk Pacific Ry., between Portage LaPrairie and Rae.
January 30, 1908.....
August 26, 1906.....
November 19, 1906.....Klondike Mines Ry.
September 17, 1906.....Canadian Northern Ry., Thunderhill Branch.
November 22, 1906.....Canadian Pacific Ry., new lines in Western Canada.
November 27, 1906.....Canadian Pacific Ry., Guelph & Goderich Branch.
November 29, 1906.....Vancouver, Victoria & Eastern Ry.
December 5, 1906.....Canadian Northern Ontario Ry.
December 5, 1906.....Brandon, Saskatckewan & Hudson Bay Ry.
December 19, 1906.....Canadian Pacific Ry., Lacombe & Wetaskiwin Branches.
December 26, 1906.....Canadian Pacific Ry., Nicola Branch.
January 9, 1907.....Canadian Northern Ry., Ridgeville Section.
January 9, 1907.....Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company.
January 9, 1907.....Canadian Northern Ry., Morinville Branch & Stony Plains Section.
February 8, 1907.....Canadian Pacific Ry., between Curzon Jct. & Kingsgate, B.C.
February 14, 1907.....Bedlington & Nelson Ry.
April 26, 1907.....Grand Trunk Ry.
May 25, 1907.....St. Maurice Valley Ry.
June 20, 1907.....Brandon, Saskatchewan & Hudson Bay Ry., Bedlington & Nelson Ry., Nelson & Fort Sheppard Ry., Red Mountain Ry., Vancouver, Victoria & Eastern Ry. & Navigation Co.
August 27, 1907.....Central Vermont Railway.
October 4 1907.....Windsor, Essex & Lake Shore Rapid Ry.
October 4, 1907.....Bay of Quinte Ry.
October 4, 1907.....Canadian Pacific Ry., between various points in Manitoba and Saskatchewan.
November 19, 1907.....Canadian Pacific Ry., between Nokomis and Lanigan, Sask.
November 22, 1907.....Central Ontario Railway.
December 12, 1907.....Michigan Central R.R.
January 9, 1908.....Wabash R. R.
February 1, 1906.....Kingston & Pembroke Ry.
February 18, 1908.....Canadian Northern Ry.
March 6, 1908.....Ottawa Electric Ry. Co.

I have the honour to be, sir,

Your obedient servant,

(Sgd.) J. HARDWELL,

Chief Traffic Officer.

A. D. CARTWRIGHT, Esq., ...
Secretary, Board of Railway Commissioners for Canada.
Ottawa.

APPENDIX C.

LIST OF APPLICATIONS HEARD AT PUBLIC SITTINGS OF THE BOARD COVERING THE PERIOD FROM APRIL 1, 1907, TO MARCH 31, 1908.

569. Application of the Vancouver, Westminster and Yukon Railway Company, under section 223 of the Railway Act, for authority to construct a branch line from a point 'A,' on the main line in the city of Vancouver, south of False Creek drawbridge, to a point 'B' on the company's property, near Clark's Drive, as shown on the plan filed with the board.

570. Application of the Vancouver, Westminster and Yukon Railway Company, under section 223 of the Railway Act, for authority to construct a branch line from a point marked 'A,' across the south shore of False Creek, east of Westminster avenue, in the city of Vancouver, to a point marked 'B,' on Burrard Inlet.

571. Application of the Vancouver, Westminster and Yukon Railway Company, under section 223 of the Railway Act, for authority to construct a branch line from False Creek to Burrard Inlet, in the city of Vancouver.

572. Application of the Vancouver, Westminster and Yukon Railway Company, under section 175 of the Railway Act, 1903, for authority to construct a branch line in the city of Vancouver from a point 'A,' on the main line, north of False Creek drawbridge, to a point 'B.'

573. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, in the city of Vancouver, over Venables street, in the city of Vancouver.

574. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, in the city of Vancouver, over Princess street.

575. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Cordova street, in the city of Vancouver.

576. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Parker street, in the city of Vancouver.

577. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Powell street, in the city of Vancouver.

578. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Burns street, in the city of Vancouver.

579. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Napier street, in the city of Vancouver.

580. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Hastings street, in the city of Vancouver.

581. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Boundary avenue, in the city of Vancouver.

582. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Caroline street, in the city of Vancouver.

583. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Charles street, in the city of Vancouver.

584. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Scott street, in the city of Vancouver.

585. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Harris street, in the city of Vancouver.

586. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Barnard street, in the city of Vancouver.

587. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Keefer street, in the city of Vancouver.

588. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on the main line, False Creek to Burrard Inlet, over Raymur avenue, in the city of Vancouver.

589. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on its main line, False Creek to Burrard Inlet, over the lane between Keefer and Princess streets, Vancouver.

590. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for approval of crossing by branch line from a point on its main line, False Creek to Burrard Inlet, over the lane between Napier and Parker streets, Vancouver.

591. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross with its branch line from a point on its main line, False Creek to Burrard Inlet, over the lane between Hastings and Princess streets, Vancouver.

592. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to construct its branch line from a point on its main line, False Creek to Burrard Inlet, over the lane between Harris and Keefer streets, Vancouver.

592. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to construct its branch line from

a point on its main line, False Creek to Burrard Inlet, over the lane between Harris and Barnard streets, Vancouver.

594. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line from a point on its main line, False Creek to Burrard Inlet, Vancouver, over the track of the Canadian Pacific Railway Company.

595. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line from a point on its main line, False Creek to Burrard Inlet, in the city of Vancouver, over the track of the British Columbia Electric Railway Company, Limited, on Powell street, Vancouver.

596. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line from a point on its main line, from False Creek to Burrard Inlet, over the track of the British Columbia Electric Railway Company, Limited, on Harris street, Vancouver.

597. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line from a point on its main line, from False Creek to Burrard Inlet, Vancouver, over the track of the British Columbia Electric Railway Columbia, Limited, on Venables street, Vancouver.

598. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line which commences at a point 'A' on its main line, in Vancouver, south of False Creek drawbridge, and running to a point 'B' on its property near Clear drive, over Westminster avenue, Vancouver.

599. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line from a point on its main line, south of False Creek drawbridge, over the track of the British Columbia Electric Railway Company, Limited, at Westminster avenue, in the city of Vancouver.

600. Application of the Vancouver, Westminister and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over Harris street, in the city of Vancouver.

601. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences from a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over Powell street in the city of Vancouver.

602. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet over Boundary avenue, Vancouver.

603. Application o fthe Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet over Hastings street, Vancouver.

604. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over Hastings street, Vancouver.

605. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commence at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over Barnard street, Vancouver.

606. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, over Princess street, Vancouver.

607. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line over another branch line which it is proposed to construct on the south shore of False Creek, east of Westminster avenue, over Venables street, Vancouver.

608. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commence at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, to a point 'B' on Burrard Inlet, over Parker street, Vancouver.

609. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, to a point 'B' on Burrard Inlet, over Napier street, Vancouver.

610. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over Keefer street, Vancouver.

611. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line on the south shore of False Creek, running to a point 'B' on Burrard Inlet, over Raymur avenue, Vancouver

612. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line, across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over the lane between Keefer and Princess streets, Vancouver.

613. Application of the Vancouver, Westminster and Yukon Railway Company under section 237 of the Railway Act, for authority to cross by branch line, which commence at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over the lane between Harris and Barnard streets, Vancouver.

614. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, over the lane between William and Napier streets, Vancouver.

615. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, to a point 'B' on Burrard Inlet, over the lane between Parker and Napier streets, Vancouver.

616. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, to a point 'B' on Burrard Inlet, over the lane between Hastings and Princess streets, Vancouver.

617. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over the lane between Hastings and Cordova streets, Vancouver.

618. Application of the Vancouver, Westminster and Yukon Railway Company, under section 237 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore False Creek, east of Westminster avenue, and running to a point 'B' on Burrard Inlet, over the lane between Harris and Keefer streets, Vancouver.

619. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, in the city of Vancouver, east of Mackenzie avenue, and running to a point 'B' on Burrard Inlet, over the track of the Canadian Pacific Railway Company, Vancouver.

620. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line on the south shore of False Creek, east of Westminster avenue, over the track of the British Columbia Electric Railway Company, Limited, at Venables street, Vancouver.

621. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, to a point 'B' on Burrard Inlet, over the track of the British Columbia Electric Railway Company, Limited, at Powell street, Vancouver.

622. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross by branch line, which commences at a point 'A' on another proposed branch line across the south shore of False Creek, east of Westminster avenue, to a point 'B' on Burrard Inlet, over the track of the British Columbia Electric Railway Company, Limited at Harris street, Vancouver.

623. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross the track of the Canadian Pacific Railway Company, near Fourteenth street, in the city of New Westminster, province of British Columbia.

624. Application of the Vancouver, Westminster and Yukon Railway Company, under section 159 of the Railway Act, for an order approving of its located line from Fourteenth street to Twentieth street, in the city of New Westminster, British Columbia.

625. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to join its track with the track of the Canadian Pacific Railway Company at Tenth street, in the city of New Westminster.

626. Application of the Vancouver, Westminster and Yukon Railway Company, under section 227 of the Railway Act, for authority to cross the track of the Canadian Pacific Railway Company at Fourteenth street, in the city of New Westminster.

627. Application of the Grand Trunk Railway Company of Canada, under section 167 of the Railway Act, for an order approving and sanctioning an alteration in the grade and other changes in connection with the building of a second track of the Grand Trunk Railway Company of Canada, between Brantford station, in the city of Brantford, to a point one mile east of Alford station, Ontario.

628. Application of the Brantford and Hamilton Electric Railway Company, under section 159 of the Railway Act, for approval of its location from the village of Cainesville to Market street, in the city of Brantford, Ontario.

629. Application of the Grand Trunk Railway Company of Canada, under sections 167 and 257 of the Railway Act, for an order approving of the reconstruction and renewal of the bridge (Port Hope viaduct) immediately east of Port Hope station, Ontario.

630. Application of S. B. Carew, under section 198 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company of Canada to provide and construct a suitable farm crossing where the company's line intersects his farm on lot 15, concession 3, township of Emily, county of Victoria and province of Ontario.

631. Application of the Grand Trunk Railway Company of Canada, under section 25, subsection 4, of the Railway Act, 1903, for an order varying the order of the board dated the 4th September, 1905, with respect to protection at Kent and Lindsay streets, in the town of Lindsay, Ontario.

632. Application of the Grand Trunk Railway Company of Canada for an order respecting signalmen at crossing in Lindsay, Ontario, with the Lindsay, Bobcaygeon and Pontypool Railway (leased by the Canadian Pacific Railway); also providing for payment of the wages of such signalmen.

633. Application of the Grand Trunk Railway Company of Canada, under section 178 of the Railway Act, for authority to expropriate additional land of John Fraser, part of lot 20, concession 3, township of Tay, county of Simcoe and province of Ontario.

634. Application of the corporation of the village of Beaverton, Ontario, under section 186 of the Railway Act, 1903, for leave to construct two highways, namely, King and Victoria streets, across the Lake Simcoe spur of the Grand Trunk Railway Company of Canada at Beaverton; also for an order, under section 196 of the Railway Act, 1903, for authority to carry a six-inch tile drain pipe across, along and under the Lake Simcoe spur of the Grand Trunk Railway Company of Canada, Beaverton, upon King and between King and Victoria streets, and permanently to maintain the same in position.

635. Complaint of J. Malkin & Sons, of Sprucedale, Ontario, *re* freight rates on tan bark to Berlin and London, Ontario, from points on the line of the Grand Trunk Railway Company of Canada.

636. Application of the Canadian Pacific Railway Company, under section 186 of the Railway Act, 1903, for the approval of a diversion of St. Clair avenue and Scarlet road, in the township of York; and for the opening of one square crossing instead of two crossings now existing.

637. Application of the village of Port Colborne, Ontario, under the Railway Act, for an order granting authority to open Mitchell street, in the village of Port Colborne, across the track of the Grand Trunk Railway Company of Canada.

638. Complaint of the Fort Erie board of trade against the Grand Trunk Railway Company of Canada in regard to the closing of the company's freight and passenger depot at Fort Erie station, Amigari, Ontario.

639. Application of the municipal corporation of the township of Bertie, under section 186 of the Railway Act, 1903, for an order directing the Michigan Central Railroad Company to provide, construct and maintain its portion of a suitable level highway crossing from its rails to the rails of the Grand Trunk Railway Company at Bowen road.

640. Application of the Canadian Pacific Railway Company, as lessee of the Toronto, Grey and Bruce Railway Company, under section 186 of the Railway Act, 1903, for leave to cross the town line road and the side road in the town of Orangeville, Ontario, with certain tracks, as shown on the plan filed with the board.

641. Application of the Ontario Power Company, under section 194 of the Railway Act, 1903, for permission to carry its power wires over the track of the Grand Trunk Railway Company of Canada, one mile east of St. Catharines, Ontario.

642. Application of the Windsor and Tecumseh Electric Railway Company, under the Railway Act, for authority to cross overhead the double tracks of the Grand

Trunk Railway Company of Canada, at Sandwich street, in the town of Walkerville, Ontario.

643. Application of the Canadian Pacific Railway Company, as leessee of the Tilsonburg, Lake Erie and Pacific Railway Company, under section 175 of the Railway Act, 1903, for an order authorizing the applicant to construct maintain and operate a branch line or spur in the town of Ingersoll, across Pemberton street, Mutual street, Thames street, along Victoria street, and across Wonham street, to the premises of the Ingersoll Packing Company.

644. Application of the municipality of the village of Weston, Ontario, for an order requiring the Canadian Pacific and the Grand Trunk Railway Companies to restore a culvert at John street crossing to its natural drainage; to lower the culvert at Dufferin street; to make a public crossing at the east end of Dennison avenue, and properly to grade the street crossing of the Grand Trunk Railway.

645. Application of the Grand Trunk Railway Company of Canada, under the Railway Act, for an order defining the amount to be paid the Niagara, St. Catharines and Toronto Railway Company for wages of the watchman called for in paragraph 5 of the order of the Board dated April 5, 1904, to be placed at the crossing by branch line from the main line of the Grand Trunk at Merrittin, Ontario, to the paper and cotton mills in Merritton, of the main line of the Niagara, St. Catharines and Toronto Railway Company.

646. Application of A. J. H. Eckardt for an order to vary clause 7 of the order of the Board made on the 23rd day of November, 1905, to dispense with the giving of a notice in writing, referred to in the said paragraph, or for an order extending the time to the applicant ofr giving such notice; or for an order allowing such notice to be given *nunc pro tunc;* or for scch another order as the Board may deem proper.

647. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the track of the Toronto Suburban Railway Company at Weston road, immediately north of St. Clair avenue, in the town of Toronto Junction.

648. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the track of the Toronto Suburban Railway Company at Davenport road, in the town of Toronto Junction, near the crossing of the northern division of the Grand Trunk Railway Company of Canada.

649. Application of the Toronto Suburban Railway Company, under the Railway Act, for an order restraining the Toronto and Niagara Power Company from maintaining and operating its power transmission lines and telephone lines over the track of the Toronto Suburban Railway Company at Bathurst street, in the township of York, immediately north of the Canadian Pacific Railway Company's track.

650. Application of the Toronto Suburban Railway Company for an order amending the orders of the Railway Committee of the Privy Council, dated the 22nd November, 1892, and the 10th May, 1893, by fixing the responsibility for the protection of the said crossing of the Toronto Suburban Railway Company over the lines of the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, upon the said companies; and reducing the amount to be paid by the Toronto Suburban Railway Company towards the construction, maintenance and protection of the said crossings as fixed by the said orders of the Railway Committee.

651. Application of the Toronto, Niagara and Western Railway Company, under section 137 of the Railway Act, 1903, for an order authorizing the company to take certain lands of the Grand Trunk Railway Company of Canada on Burlington Beach. in the township of Saltfleet, county of Wentworth, province of Ontario.

652. Application of the Toronto, Niagara and Western Railway Company, under section 137 of the Railway Act, 1903, for an order authorizing the company to take

certain lands of the Grand Trunk Railway Company of Canada on Burlington Beach, in the township of Nelson, county of Wentworth, and Province of Ontario.

653. Application of the Canadian Northern Ontario Railway Company, under section 139 of the Railway Act, 1903, for authority to take, for the convenient accommodation of the traffic on its railway, certain lands in the town of Parry Sound, Ontario.

654. Application of the Canadian Northern Ontario Railway Company, under section 175 of the Railway Act, 1903, for authority to construct a branch line from its main line, in the town of Parry Sound, to the outer harbour of Parry Sound, Ontario.

655. Application of the Canadian Pacific Railway Company, under section 177 of the Railway Act, 1903, for leave to cross with its track by an overhead bridge the track of the James Bay Railway Company's spur in the town of Parry Sound.

656. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for leave to construct branch lines in the town of Parry Sound, as shown on the plan filed with the Board.

657. Application of the Grand Trunk Railway Company of Canada, under section 175 of the Railway Act, 1903, for authority to construct a branch line or siding and two spurs therefrom, from a point on its line of railway at or about the foot of Fraser avenue; thence extending northerly along Mowat avenue, Toronto, to the establishment of the Toronto Carpet Company and the Malta Vita Food Company, as well as the property of the city of Toronto, on the westerly side of Mowat avenue.

658. Application of the Canadian Pacific Railway Company, under section 221 of the Railway Act, for authority to construct, maintain and operate a branch line or spur from a point on its main line in the city of Toronto, about eighty feet northeasterly from the eastern side of Beachall street, and across property belonging to the Ontario and Quebec Railway Company, to Front street, and thence easterly along the southern side of Front street for a total distance of about 5,200 feet, to the eastern side of Jarvis street, in the said city.

659. Application of the corporation of the city of Toronto, under sections 187 and 25 of the Railway Act, 1903, for an order :—

(1) Varying the order of the Board dated the 28th July, 1904, by directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company to stop all trains at the crossing of Yonge street, in the said city.

(2) Compelling the said railways to regulate the shunting and the speed of trains at the crossing at the foot of Bay street, in the said city; and

(3) Compelling the said railways to protect the crossing at Dufferin street, near the exhibition grounds, and to stop all trains on either side of the street during the holding of the Industrial Exhibitin.

660. Application of the corporation of the city of Toronto, under the Railway Act, for an order compelling the Grand Trunk Railway Company of Canada to provide better protection on the level crossing known as the Sunnyside crossing of the company's track at the western end of the city of Toronto; and for the lowering of the rate of speed of trains at the said crossing.

661. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct certain branch lines or spurs from points on its main line, on the Ontario and Quebec Railway, to Ashbridges Bay, in the city of Toronto.

662. Application of the Grand Trunk Railway Company of Canada, under section 237 of the Railway Act, for authority to construct a new second track from North Parkdale station to Toronto Junction, commencing at Queen street subway, near North Parkdale station, and following the west side of the main line to West Lodge avenue, where it will cross to the east side and follow the main line to Toronto Junction, which track will cross the following highways:—Brock avenue, West Lodge avenue, Lansdowne avenue, Dundas street, Bloor street, Maude street, Wallace avenue, Royce avenue, Toronto street.

663. Application of the Canadian Pacific Railway Company, under sections 222 and 229 of the Railway Act, for authority to construct certain spurs or branch lines from a point on its railway north of Toronto, on lot 26, 2nd concession, township of York, to a point or points on lot 27, in the same concession, east of Christie street, to the premises of Clark & Clark, North Toronto; also for authority to cross with the said spurs or branch lines the lands of Henry G. P. Nicholls and the proposed location thereon of the Toronto, Niagara and Western Railway Company's Railway, upon which the Toronto and Niagara Power Company have located electrical transmission wires.

664. Application of the Algoma Central and Hudson Bay Railway Company, under sections 7, 317, 333, 334 and 338 of the Railway Act, for a joint tariff with the Grand Trunk Railway Company of Canada.

665. Application of W. N. Robertson for an order, under section 26 of the Railway Act, directing the Grand Trunk Railway Company of Canada to issue third-class tickets at the rate of one penny per mile for each mile travelled, and to carry third-class passengers for one penny per mile for each mile travelled; and directing the company to provide at least one train having in it third-class carriages, which shall run every day throughout the length of its line.

666. Approval of the tariffs of telephone tolls of the Bell Telephone Company of Canada and the North American Telegraph Company, Limited, pursuant to the provisions of section 356 of the Railway Act.

667. Application of the Lake Erie and Detroit River Railway Company to vary or rescind the order of the Board dated the 20th May, 1907 (Order No. 3083), directing the installation and maintenance of an interlocking plant where the line of the Lake Erie and Detroit River Railway Company crosses the track of the Grand Trunk Railway Company of Canada, in the city of Chatham.

668. Application of the St. Mary's and Western Ontario Railway Company, under section 227 of the Railway Act, for authority to cross under the tract of the Sarnia line of the Grand Trunk Railway Company of Canada, about 540 feet west of the St. Mary's Junction, Ontario, station.

669. Application of the St. Mary's and Western Ontario Railway Company, under section 227 of the Railway Act, for authority to cross under the track of the London branch of the Grand Trunk Railway Company of Canada about 3,500 feet south of the Grand Trunk Railway station at St. Mary's, Ontario.

670. Application of the Georgian Bay and Seaboard Railway Company of Canada, under section 177 of the Railway Act, 1903, for leave to cross the track of the Medonte Tramway (operated by the Grand Trunk Railway Company of Canada), in the town of Coldwater, Ontario, township of Medonte, at mileage 11·8 of the Georgian Bay and Seaboard Railway.

671. Application of the Canadian Northern Railway Company, under section 177 of the Railway Act, 1903, for leave to place its line or track across the line or track of the Canadian Pacific Railway Company (Souris branch), in the southwest quarter of section 32, township 9, range 20, west principal meridian, near Brandon, Manitoba.

672. Application of the Ottawa Electric Railway Company, under the Railway Act, for an order requiring the corporation of the village of Hintonburg, Ontario, to bear a portion of the expense of widening the approach to the western end of Somerset street bridge, in the city of Ottawa.

673. Application of the Canada Atlantic Railway Company, for an order directing the Canadian Pacific Railway Company to pay to the applicant company a certain sum on account as partial compensation for the use by the Canadian Pacific Railway Company of the Central station at Ottawa, Ontario.

674. Application of the Sydenham Glass Company of Wallaceburg, Ontario, respecting the classification of certain glass bottles manufactured by the applicant, and the freight rates charged thereon.

675. Application of the township of the Front of Escott, in the county of Leeds and province of Ontario, under sections 235 to 242, inclusive, of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to provide and construct immediately to the east of the present crossing a suitable overhead crossing where the company's railway intersects, at different level crossings, two and one-half miles west of Mallorytown station, the main travelled highway running from the village of Rockfield, in the township of the Front of Escott, in a southerly direction, to the village of Escott, Ontario.

676. Application of the Canadian Pacific Railway Company, under sections 235 to 237 of the Railway Act, for an order granting authority to lay tracks across and otherwise use for railway purposes that portion of Anne street homologated but not opened as a public street lying between the southwest side of Halowell street and the northeast side of Park avenue, in St. Henri Ward, in the city of Montreal.

677. Application of the Brantford and Hamilton Electric Railway Company, under section 159 of the Railway Act, for approval of the location of its line on the north side of the canal, in the city of Brantford, between Murray and Market streets.

678. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 159 of the Railway Act, for approval of its location in the city of Brantford.

679. Application of the Brantford and Hamilton Electric Railway Company, under sections 235 to 242 of the Railway Act, for authority to cross the Hamilton stone road, near Cainsville, Ontario.

680. Application of the Grand Valley Railway Company, under the Railway Act, for sanction of certain agreements authorizing the purchasing, leasing or amalgamating of the Brantford Street Railway Company and the Woodstock, Thames Valley and Ingersoll Electric Railway Company.

681. Application of the St. Paul Land and Hydraulic Company for an order varing and defining the order of the Board dated the 4th October, 1906, upon application of the Canadian Pacific Railway Company, for a deviation of a portion of a branch line on the south side of Lachine Canal, Quebec.

682. Application of the Canadian Northern Ontario Railway Company for an order, under section 178 of the Railway Act, granting leave to take portions of lots Nos. 23 and 24 on plan No. 64 of the town of Parry Sound, for diverting the Great North Road, in the said town, to avoid a crossing of the said road by the right of way of the said railway.

683. Application of the Napierville Junction Railway Company, under section 277 of the Railway Act, for leave to join its track with the track of the Canadian Pacific Railway Company, and to cross the track of the Canadian Pacific Railway Company at a point about one mile east of St. Constant station, on the line of the Canadian Pacific Railway.

684. Application of the Grand Trunk Pacific Railway Company, under section 123 of the Railway Act, 1903, for approval of its located line through the town of Fort William.

685. Application of the Grand Trunk Pacific Railway Company, under section 123 of the Railway Act, 1903, for approval of its location through the town of Fort William, Ont.

686. Application of the city of Fort William, Ont., to have the Canadian Northern Railway remove their depot off the main business street of Fort William, Ont.

687. Application of the Grand Trunk Pacific Railway Company, under section 123 of the Railway Act, for approval of its location from the west line of section 18, township 11, range 3, west of the first meridian, to the city of Winnipeg, in the province of Manitoba, mile 106.44 to mile 141.061.

688. In *re* representations of Winnipeg Jobbers' Association as to permanent operating officer of the Board to be located at Winnipeg, Man.

689. In *re* representations of Winnipeg Jobbers and Manitoba Grain Growers' Associations as to reciprocal demurrage.

690. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for an order granting leave to construct, maintain and operate a branch line of railway or spur from a point on the South Western and Pembina Mountain branch of the said railway, in the city of Winnipeg, and thence in a southerly direction between lots 53 and 54 of the parish of St. John, according to the Dominion government survey of the said parish, to the premises of the Great West Development Company.

691. Application of the Canadian Pacific Railway, under section 177 of the Railway Act, for an order authorizing a crossing with its tracks of the tracks of the Qu'Appelle. Long Lake and Saskatchewan Railway and Steamship Company at Saskatoon, and to maintain, construct and operate the said crossing.

692. Application of the Canadian Pacific Railway Company, under sections 227 and 229 of the Railway Act, for an order requiring the Canadian Northern Railway Company to provide an interlocking and derailing plant at its crossing with the Canadian Pacific Railway at Morris, Man.

693. Application of the Canadian Northern Railway Company, under section 177 of the Railway Act, for leave to place its line or track across the lines or tracks of the Canadian Pacific Railway Company (Souris branch) in the southwest quarter, section 32, township 9, range 20, W.F.M., near Brandon, Man.

694. Application of the Grand Trunk Pacific Railway Company, under section 177 of the Railway Act, 1903, for an order granting authority to lay its line or tracks across the lines or tracks of the Canadian Pacific Railway Company's main line, parish lot 58, district of Portage la Prairie, in the province of Manitoba.

695. Application of the Grand Trunk Pacific Railway Company for an order amending the order of the Board No. 2854, dated April 16, 1907, authorizing the Grand Trunk Pacific Railway to cross with its tracks the track of the Canadian Northern Railway Company, Arizona branch, parish lot 58, district of Portage la Prairie, province of Manitoba.

696. Application of the Canadian Pacific Railway Company, under section 178 of the Railway Act, 1903, for an order requiring the Canadian Northern Railway Company to erect, construct and maintain an interlocking plant and signalling appliance at the intersection of the railway of the said Canadian Northern Railway Company with the railway of the Canadian Pacific Railway Company at Fort Whyte, Man.

657. Application of the Grand Trunk Pacific Railway Company, under section 227 of the Railway Act, for leave to carry its line or tracks across the lines or tracks of the Canadian Pacific Railway Company (Souris branch), lots 16 and 17, parish of Headingly, district of Winnipeg, Man.

698. Application of the Grand Trunk Pacific Railway Company in *re* 273 highway crossings between Portage la Prairie, Man., and Edmonton, Alta.

699. Application of the Grand Trunk Pacific Railway Company, under section 159 of the Railway Act, for an order approving of its located lines from the east line of section 17, township 53, range 23, west of the 4th meridian, through and north of Edmonton, in the province of Alberta, to the range line between range 24 and 25 west of the 4th meridian.

700. Application of the Canadian Pacific Railway Company as lessees of the Calgary and Edmonton Railway Company, under section 159 of the Railway Act, for approval and sanction of the location of a portion of a branch line of railway from a point on Peace avenue to 16th street in the city of Edmonton, province of Alberta.

701. In *re* question of seniority at the Kaiser, Man., crossing of the Canadian Pacific and Canadian Northern Railways.

702. In *re* Canadian Pacific Railway double track west of Winnipeg, Man., to Brandon and Portage la Prairie, Man.

703. In *re* representations of the Grain Dealers' Association respecting Manitoba Grain Act and car supply for movement of traffic.

704. In *re* railway facilities and accommodation in the Goose Lake district.

705. In *re* representations of Cardston Farmers' Association respecting freight and passenger rates charged by the Alberta Railway and Irrigation Company.

706. Application of the Alberta Railway and Irrigation Company to reduce its first-class passenger fare to 4 cents per mile.

707. Application of the Canadian Pacific Railway under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line at Red Deer, Alberta, beginning at a certain point in the station grounds, thence in an easterly direction into the premises of the Red Deer Milling and Elevator Company.

708. Application of the town of Didsbury, Alberta, for an order directing the Canadian Pacific Railway Company to provide a suitable crossing.

709. Application of the town of Olds, Alta., under section 184 to 191 of the Railway Act, 1903, for leave to construct certain highways across the tracks of the Calgary and Edmonton branch of the Canadian Pacific Railway Company in the town of Olds, Alta.

710. Application of the city of Calgary for an order, under section 237 of the Railway Act, 1903, under an agreement between the city and the Canadian Pacific Railway dated the 13th September, 1906, and under an order of the Board dated 13th September, 1906, with respect to the subway on Osler street, now First street east, in the city of Calgary, under the tracks of the Canadian Pacific Railway.

711. Application of the city of Calgary, Alta., to lay water pipes and sewer pipes under the tracks of the Canadian Pacific Railway Company on First street west.

712. Application of J. Travis for a further hearing of the application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line or spur in the city of Calgary, as described in the application.

713. Application of the municipality of the town of Claresholm, Alta., for an order under section 186 of the Railway Act, 1903, directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing where the company's railway intersects Third avenue, in the centre of the said town of Claresholm.

714. Application of the Vancouver, B.C., Board of Trade for rebates on transcontinental rates.

715. Application of the Vancouver, Westminster and Yukon Railway Company for an interchange of freight with the Canadian Pacific Railway Company at New Westminster, province of British Columbia.

716. Application of the Vancouver, Westminster and Yukon Railway Company for an order, under section 227 of the Railway Act, for the junction of their tracks with the tracks of the Canadian Pacific Railway Company on the south side of False Creek, at and near the junction of Columbia and Fort streets, Vancouver, the Canadian Pacific Railway Company's tracks at this point being leased and operated by the British Columbia Electric Railway.

717. Application of the Vancouver, Victoria and Eastern Railway Company to carry its line of railway along the river road south of the Fraser river in the township of Delta, B.C.

718. In *re* Vancouver, Westminster and Yukon Railway Company's crossing at the north road between Westminster and Vancouver, British Columbia.

719. Application of the British Columbia Electric Company to cross the tracks of the Vancouver, Westminster and Yukon Railway Company at Park drive in the city of Vancouver, British Columbia.

720. Application of the Vancouver, Westminster and Yukon Railway for approval of its line of railway from Third avenue to Twentieth street in the city of New Westminster, British Columbia.

721. Application of the Canadian Pacific Railway Company to cross the tracks of the Vancouver, Westminster and Yukon Railway Company near Fourteenth street

in the city of New Westminster, British Columbia, and to govern the speed of the trains of the Vancouver, Westminster and Yukon Railway.

722. In *re* complaint of the Baker Lumber Company of non-supply of cars by the Canadian Pacific Railway Company and the Crow's Nest Southern Railway Company.

723. In *re* complaint of the Piper Lumber Company of non-supply of cars by the Canadian Pacific Railway Company and the Nelson and Fort Shepherd Railway Company.

724. Application of the Vancouver, Westminster and Yukon Railway Company for authority to run spurs on False Creek, Vancouver, British Columbia.

725. Application of the Canadian Pacific Railway Company to carry a spur line on Dunlevie avenue, Vancouver, British Columbia.

726. Application of the Canadian Pacific Railway Company in *re* highway crossing on Mission branch of the Canadian Pacific Railway Company.

727. In *re* representations of milk shippers of the province of British Columbia respecting freight rates on milk shipments to Vancouver, British Columbia.

728. Application of the Vancouver, Westminster and Yukon Railway Company, under section 176 of the Railway Act, for power to take possession of, use and occupy that certain parcel of land and premises belonging to the Canadian Pacific Railway Company, and being composed of a portion of the foreshore of Burrard Inlet in front of part of District lot 181.

729. In *re* highway crossing of the Esquimalt and Nanaimo Railway oCmpany in the city of Victoria, British Columbia.

730. Application of the Brunet Sawmill Company for an order changing plan of the Vancouver, Westminster and Yukon Railway across certain lots in the city of Vancouver, British Columbia.

731. Application of the city of Winnipeg, Man., for protection of crossing at McPhillips street.

732 Application of the city of Winnipeg for an order of the Board authorizing the construction of a bridge between Brown and Brant streets over the yards of the Canadian Pacific Railway in the city of Winnipeg; and the application of the city that the Canadian Pacific Railway Company be ordered to contribute towards the cost of constructing said bridge.

733. In *re* representationos of the Canadian Pacific Railway Company with reference to order of the Board respecting protection of bridges.

734. Application of the Canadian Pacific Railway Company for order directing the Okotoks Electric Light Company to file and receive approval of its overhead power crossings.

735. In *re* petition of the residents of Treherne, Man., asking that the Canadian Pacific Railway Company's station at Treherne be not removed from its present site.

736. In *re* form of order to be used in connection with the Canadian Pacific Railway Company's crossing on streets in the ctiy of Winnipeg, Man.

737. Application of the Fort William Terminal Railway and Bridge Company for approval of its location.

738. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for authority to construct a branch line or connection at or near the town of St. Lambert, county of Chambly, province of Quebec, between the second and fourth districts of its railway, the said branch line extending from a point on its railway from St. Lambert to Brosseau Junction, about 1,700 feet south of the southern boundary of the town of St. Lambert, crossing Hickson avenue, Edison avenue and First street, and certain properties situated between those highways, to a point on the said railway at or near the easterly entrance of the Victoria Jubilee bridge.

739. Application of the Canadian Pacific Railway Company, as lessee exercising the franchises of the Ontario and Quebec Railway Company, under section 222 of the Railway Act, for authority to construct, maintain and operate a branch line of rail-

way or spur from a point on the main line of its branch along the north bank of the Lachine canal, about 1,940 feet northwesterly from the swing bridge of the said Ontario and Quebec Railway Company over the Lachine canal, and running from the said point northeasterly to and into the property of the Simplex Railway Appliance Company, Limited, on lot 965 of the parish of Lachine, county of Jacques Cartier, for a total distance of about 1,400 feet, as shown in red on the plan and profile on file with the Board.

740. Application of the Grand Trunk Railway Company (Canada Atlantic) for an order, under the Railway Act, diverting farm crossing now on lot 174, belonging to the estate of Stephen Latreille, parish of St. Polycarpe, Que., to the public highway situated a short distance wset of the farm crossing.

741. Complaint of the Truro Condensed Milk Company, Limited, against the Grand Trunk Railway Company of Canada with respect to rates and service on milk shipments.

742. Complaint of Messrs. Angus McDonald & Son, of Alexandria, Ont., under sections 252 and 253 of the Railway Act, of alleged discriminatory and unjust rates of freight on coal between Rouse's Point, N.Y., Cecile Junction, Que., and Massena Springs, N.Y., and points on the Canada Atlantic Railway.

743. Complaint of the Ogilvie Flour Mills Company, Limited, under section 315 of the Railway Act, of discriminatory rates charged by the Grand Trunk Railway Company of Canada in shipping, handling and conveying wheat from Georgian Bay ports to Montreal, Que., for export, as compared with the rates on wheat brought to Montreal, Que., for milling purposes at that point.

744. Application of the town of Pembroke, Ont., under section 29 of the Railway Act, for an order amending order of the Board dated the 4th of July, A.D. 1907, as to filling in of the trestle opposite the town of Pembroke, Ont.

745. Application of John Cockburn, of Pembroke, Ont., under section 29 of the Railway Act, for an order amending order of the Board dated the 4th of July, A.D. 1907, as to filling in of the trestle opposite the town of Pembroke, Ont.

746. Application of the Pembroke Lumber Company, under section 29 of the Railway for an order amending order of the Board dated the 4th of July, A.D. 1907, as to filling in of trestle opposite the town of Pembroke, Ont.

747. Application of the Fort William Terminal Railway and Bridge Company for approval of the plan, profile and book of reference of its location in the ctiy of Fort Fort William, Ont.

748. Application of the corporation of the city of Fort William, Ont., under section 237 of the Railway Act, for an order directing the Canadian Northern Railway Company to provide and construct suitable highway crossings over the company's railway where the following highways intersect the said Canadian Northern Railway, in the city of Fort William, namely: Neebing avenue, Stanley avenue, Nepigon avenue, Crawford avenue, Home avenue, Mountain avenue, Amelia street, Francis street, Victor street, Mary street, Christina street, Franklin street, Norah street, Frederica street, Gore street and Empire avenue.

749. Application of the corporation of the city of Fort William, Ont., under section 262 of the Railway Act, for an order directing the Canadian Northern Railway Company to abandon using its loop line along Arthur and Vickers streets, in the ctiy of Fort William; and further directing the Canadian Northern Railway Company to operate all its trains on the original straight line right of way established by the Port Arthur, Duluth and Western Railway Company.

750. Application of the corporation of the city of Fort William, Ont., under section 187 of the Railway Act, for an order directing the Canadian Norhtern Railway Company to remove its present railway station at Fort William, Ont., clear of the intersection of Victoria avenue and Vickers street, in the said city.

751. Application of the Toronto, Hamilton and Buffalo Railway Company, under section 222 of the Railway Act, for authority to construct, maintain and operate a

branch line or lines of railway, with spurs and sidings, in the township of Brantford and city of Brantford, county of Brant, and province of Ontario, from a point on glebe lot to the premises of the William Buck Stove Company.

752. Application of the Brantford and Hamilton Electric Railway Company, under section 178 of the Railway Act, for authority to take those portions of lot No. 50, in the second concession of the township of Ancaster and county of Wentworth, belonging to Elizabeth Anderson and Jennie Hammond, as shown on plan submitted therewith showing the proposed deviation of the travelled highway known as Mohawk road.

753. Application of the Brantford and Hamilton Electric Railway Company, under section 246 of the Railway Act, for an order approving of the proposed crossing of the applicant company's transmission lines over the tracks of the Grand Trunk Railway at Cainsville, in the township of Brantford, county of Brant, province of Ontario.

754. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line at Red Deer, Alberta, beginning at a point in the station grounds 4955-43.5; thence in an easterly direction into the premises of the Red Deer Milling and Elevator Company, a distance of 5.5 feet.

755. Application of Alexander Loiselle, of the town of Red Deer, Alberta, merchant, for an order, under sections 119, 184, 190 and 191 of the Railway Act, 1903, directing the Canadian Pacific Railway Company, where the company's proposed branch line crosses a public highway in the town of Red Deer, aforesaid, and upon which the lands owned by him abut, to restore as nearly as possible to its former state the said highway where the proposed line crosses the same, or put the same in such a state as not to materially impair its usefulness; and for a further order directing the said company to build a crossing and an approach to the said crossing on either side of the rails where the proposed branch line crosses the said highway.

756. Application of the Canadian Pacific Railway Company, under section 29 of the Railway Act, for an order amending order or the Board dated July 4, 1907, so as to provide that a portion of the expense of the construction of a subway to carry Little Bridge street under the tracks of the Canadian Pacific Railway Company, or a subway placed between Bridge and Little Bridge streets, whichever may be accomplished, shall be borne by the municipality of the town of Almonte, Ont.

757. Application of the Ottawa Electric Railway Company, under the Railway Act, for an order requiring the corporation of the village of Hintonburg, Ont., to bear a portion of the expense of widening the approach of the western end of the Somerset street bridge, in the city of Ottawa.

758. Application of A. K. S. McA. Robertson, under section 23 of the Railway Act, 1903, for an order rescinding order of the Board No. 3472, dated July 15, 1907, in connection with the application of the Chatham, Wallaceburg and Lake Erie Railway Company.

759. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under section 184 of the Railway Act, 1903, for an order granting leave to carry and construct its line of railway and its power lines and telegraph and telephone lines upon and along certain existing highways in the city of Chatham and the town of Wallaceburg, and across certain existing highways in the city of Chatham, and in the townships of Dover and Chatham.

760. Application of the London Street Railway Company, under the Railway Act, for an order modifying the order of the Board dated October 13, 1904, requiring the applicant company to install a half interlocker at the crossing with the P.M.R.R. Company at South street, in the city of London, Ont.

761. Application of Robert McVicar, of the township of Brooke, county of Lambton, Ont., for an order, under sections 252 and 253 of the Railway Act, directing the Michigan Central Railroad Company to provide and construct two suitable farm cross-

ings where the company's railway intersects his farms in the east half of lot No. 13, and in the west half of lot No. 14, each containing 100 acres, and both in the 5th concession of the township of Brooke, county of Lambton, province of Ontario.

762. Application of the Essex Terminal Railway Company, under sections 29 and 45 of the Railway Act, for an order to rescind three orders of the Board dated the 22nd March, 1907, 5th June, 1906, and 14th March, 1907, and all other orders so far as they may affect the applicant company; and in the matter of the application of the Essex Terminal Railway Company for an order, under section 26 of the Railway Act, to require the Windsor, Essex and Lake Shore Rapid Railway Company forthwith to remove its tracks laid by it upon the gravel road where the applicant company proposes to cross the same; or, in the alternative, for an order, under section 237, to permit a level crossing by the railway company on the said gravel road, otherwise known as the Talbot and Windsor road, in the township of Sandwich West.

763. Complaint of C. E. Naylor, of the town of Essex, Ont., against the Windsor, Essex and Lake Shore Rapid Railway Company.

The board will inquire into the subject matter of C. E. Naylor's complaint of the 5th September, 1907, and as to what authority the Windsor, Essex and Lake Shore Rapid Railway Company has to operate its railway and convey electrical power along the streets in the town of Essex, Ontario; and as to what precautions should be taken for the safety of the public in consequence of the construction and operation of the railway and carriage of electrical power along the street or streets in question; and what protection should be adopted for the purpose of preventing the contact of other wires with the power wires of the Windsor, Essex and Lake Shore Rapid Railway Company on the said street or streets, and the injury to persons or property thereby, and by whom the expense thereof should be defrayed.

764. Application of the Windsor, Essex and Lake Shore Rapid Railway Company, under section 159 of the Railway Act, for approval, ratification and confirmation of the construction of the applicant's railway, including the erection of poles and wires in connection therewith, and to approve of the location of the railway and the poles and wires between Windsor and Leamington, in the course and upon the route approved, sanctioned, and authorized by the Minister of Railways and the Board between Windsor and Leamington, and to allow the applicant company to operate its road and telephone communication connected therewith, upon, along and across the highways between the said termini where the road, poles, or wires are being constructed or erected.

765. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under sections 237 and 247 of the Railway Act, for leave to carry and construct its line of railway and its power lines and telegraph and telephone lines across, along and upon the tracks of the Père Marquette Railroad Company, on the town line between the townships of Harwich and Raleigh in the county of Kent, province of Ontario.

766. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under sections 284 and 317 of the Railway Act, for an order providing for the interchange of freight traffic between the Chatham, Wallaceburg and Lake Erie Railway Company and the P.M.R.R.C., at the city of Chatham, in the county of Kent, province of Ontario, and at the town of Wallaceburg, in the county of Kent, Ontario, and regulating the rates to be charged therefor by the respective roads interested.

767. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under sections 284 and 317 of the Railway Act, for an order providing for the interchange of freight traffic between the application company and the Canadian Pacific Railway Company, at the city of Chatham, county of Kent, province of Ontario, and regulating the rates to be charged therefor by the respective roads interested.

768. Application of the Essex Terminal Railway Company, under section 227 of the Railway Act, for authority to place its lines or tracks across the line or tracks of the Ontario and Quebec Railway Company (operated by the Canadian Pacific Rail-

way Company) at grade level; and to joint with its line or track the lines or tracks of the Ontario and Quebec Railway Company at a point in the second concession of the township of Sandwich West, in the county of Essex, Ont.

769. Application of the municipal council of the township of Eckfrid, county of Middlesex, province of Ontario, under section 197 of the Railway Act, for an order approving the character of the work provided for by the report made by George A. McGubbin, Ontario land surveyor, and engineer, in connection with the drain herein cited as the 'McGugan-Currie drain,' being a drain proposed to be constructed under the Municipal Drainage Act in the said township, and the repair or improvement of a drain known as the 'Currie drain,' in the said township of Eckfrid, the sid construction, repairs and improvements to be carried out under the provisions of the said Municipal Drainage Act of Ontario, and further approving of the specifications and plans for the construction, repair and improvement of the said drains, along, under and across the raiway (forerly called the Great Western Railway, and Air Line Division thereof, but now called the Great Western Railway, and operated by the Grand Trunk Railway Company), and lands of the said Grand Trunk Railway Company.

770. Application of the township of Raleigh, under section 251 of the Railway Act, for authority to construct certain works, known as the 'Pike Drainage Works,' across the right of way of the Grand Trunk Railway Company of Canada, in the township of Raleigh, county of Kent, and province of Ontario.

771. Application of the Great Northern Railway Company, under the Railway Act, in respect to the division of rates on coal between Duluth and Winnipeg as between the Great Northern Railway Company and the Canadian Northern Railway Company.

772. Application of the Brandon, Saskatchewan and Hudson Bay Railway Company, under the Railway Act, for an order fixing the terms and conditions, and in particular rate upon which an interchange of traffic might be carried on between the applicant company and the Canadian Pacific Railway Company at Brandon, Man.

773. Application of the Vancouver, Victoria and Eastern Railway and Navigation Company, under section 178 of the Railway Act, for authority to take more ample space through a portion of the southeast quarter of section 10, and the northeast quarter of section 3, township 16, New Westminster district, British Columbia, than is shown on the plans of the said railway company on the line of their branch line from Abbottsford to Huntingdon as already allowed by the Board of Railway Commissioners for Canada.

774. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for authority to construct, maintain and operate an additional railway tract on Ferguson avenue, in the city of Hamilton, Ont., commencing at a point on Ferguson avenue about 175 feet south of Barton street, thence northerly along Ferguson apenue and crossing Barton street and the tracks of the Hamilton Street Railway upon Barton street to the property of the applicant company north of Murray street with two branch lines of railway and spurs of therefrom, spur No. 1 extending from a point on said additional track north of Barton street; thence in a northwesterly direction along, upon and across Ferguson avenue and lots 100, 98, a lane, and lots 91, 92 and 93 west of Ferguson avenue, and north of Barton street, a total distance of 577 feet more or less to the corner of Murray and Elgin streets; and spur 2 extending northerly from a point on No. 1 on Ferguson avenue a distance of 345 feet to the corner of Murray street.

775. Application of the Grand Trunk Railway Company of Canada, under section 227 of the Railway Act, for authority to cross with its additional track on Ferguson avenue, in the city of Hamilton, Ont., the two tracks of the Hamilton Street Railway on Barton street, where it is intersected by Ferguson avenue.

776. Application of the city of Hamilton, under the Railway Act, for an order authorizing the construction of sewers in the city of Hamilton, under the tracks of the Toronto, Hamilton and Buffalo Railway Company on Trolley street, at the intersection of the Toronto, Hamilton and Buffalo spur line.

777. Application of the city of Hamilton, under section 26 of the Railway Act, for an order to compel the GrandTrunk Railway Company to complete, without delay, a bridge carrying the line of Ferrie street, in the city of Hamilton, over the line and tracks of the Grand Trunk Railway Company at that point.

778. Application of the city of Hamilton, under section 237 of the Railway Act, for an order authorizing the construction of Trolley street, being the original allowance for road between lots 6 and 7 in the township of Barton, now in the city of Hamilton, across the Toronto, Hamilton and Buffalo spur line, at grade.

779. Application of the Toronto, Hamilton and Buffalo Railway Company, under sections 235 and 237 of the Railway Act, for authority to cross the following highways in the city of Hamilton, province of Ontario, with a branch line of their railway known as the Westinghouse Branch Line, in and by order No. 3231 of the Board, dated June 27, 1907, authorized to be constructed, maintained and operated by the applicants, that is to say, Avondale street, Trolley street, Agnes street, Lottridge street, Emily street and Ruth street.

780. Application of the Galt Board of Trade, under section 228 of the Railway Act, for an order directing interswitching between the Canadian Pacific, the Grand Trunk and Galt, Preston and Hespeler street railway companies, at Galt, Ontario—such interswitching to include the towns of Berlin and Waterloo and Preston and Hespeler.

781. In the matter of the application of the Niagara, St. Catharines and Toronto Railway Company, under sections 158 and 159 of the Railway Act, for an order sanctioning plans, profiles and book of reference, showing the company's proposed line of railway in the city of Brantford from the fifty-sixth and a quarter to the fifty-eighth two-one-hundredths mile.

782. Application of Eli Van Allen, of the city of Hamilton, Ontario, under the Railway Act, for an order rescinding order of the Board of September 1, 1905, authorizing the Brantford and Hamilton Electric Railway Company to construct its line of railway upon and over certain streets and highways in the city of Hamilton, Ontario, and to reconsider the case; and for an interim order requiring the said railway company to withhold work upon the said streets pending the order of the Board, or for such other orders as to the Board may seem just.

783. Application of Eli Van Allen, of the city of Hamilton, Ontario, for an order rescinding order of the Board dated September 1, 1905, authorizing the Brantford and Hamilton Electric Railway Company to construct and operate its railway upon and along certain streets in the city of Hamilton, Ontario, and to reconsider the case; and for an interim order requiring the said railway company to withold work upon said streets pending an order from the Board; or for such other order as to the Board may seem just.

784. Application of the Guelph and Goderich Railway Company, under section 176 of the Railway Act, for an order permitting the applicant company to take possession of, use and occupy the lands and premises of the Grand Trunk Railway Company, or so much thereof as may be necessary, lying between the lands and buildings of the Goderich Elevator and Transit Company, Limited, in the town of Goderich, and the railway of the applicant company, operated by the Canadian Pacific Railway Company, as shown upon the plan annexed, marked 'A,' being part of the hillside in front of the town of Goderich, to such an extent as will enable the applicant company to provide and install across the intervening three feet of Grand Trunk land and track, a bridge, grain carrier, or other means of conveying grain from the elevator of the said Goderich Elevator and Transit Company, Limited,

to the railway of the applicants and the cars of the said the Canadian Pacific Railway Company upon the railway of the applicants.

And for an order of the Board, under section 284 of the Railway Act and its subsections, specifying the the works and apparatus to be constructed and carried out for the said purpose, and to give to the demand of the said the Goderich Elevator and Transit Company, Limited, submitted herewith for the construction of a branch or other works or suitable means of connection with the said elevator as will enable the said elevator company to obtain railway facilities for its business with the applicant company and its lessees.

785. Application of the Brantford and Hamilton Electric Railway Company, under sections 235 and 243 of the Railway Act, for an order approving of the plans and profiles of the crossing by the applicant company of the Brantford and stone road at the village of Ancaster, station 346-83—349-22.

786. Complaint of the Canadian Manufacturers' Association, the Huntsville Lumber Company and others, under sections 252, 253 and 254 of the Railway Act, 1903, against the Grand Trunk Railway Company of Canada, *in re* interswitching charges at Toronto, Ont.

787. Complaint of Messrs. Leak & Co., Toronto, Ontario, *re* interswitching charges of the Grand Trunk Railway at Toronto.

788. Complaint of the W. Booth Lumber Company, Limited, Toronto, Ontario, *in re* interswitching charges of the Grand Trunk Railway at Toronto.

789. Complaint of the Boake Manufacturing Company, Limited, Toronto, *in re* interswitching charges of the Grand Trunk Railway at Toronto.

790. Complaint of W. J. Lovering, lumber merchant, Toronto, *in re* interswitching charges of the Grand Trunk Railway Company at Toronto.

791. Complaint of the Graham Company of Belleville, Ont., against the Canadian Freight Association in respect of the following questions:—(1) Heating of fruit cars; (2) Refrigeration of fruit cars and supply of ice for that purpose; (3) Stopover privileges for apple shipments in transit; (4) Liability of railway companies for damage to fruit in transit.

In connection with the above complaint was heard the complaint of E. D. Smith, Winona, Ont., against joint circular of the Brandon, Saskatchewan and Hudson's Bay Railway, the Canadian Northern Railway, the Canadian Pacific Railway and the Midland Railway of Manitoba, issued at Winnipeg by F. W. Peters, on October 7, 1907, to shippers and consignees *in re* handling of apples.

792. Complaint of the Dominion Millers' Association re delay to shipments of wheat from Fort William, Ontario, via the Canadian Pacific Railway Company.

793. Application of the Grand Trunk Railway Company of Canada for an order directing that as and from the 12th day of December, 1905, day and night watchmen be placed at the crossing of the Grand Trunk Railway by the Berlin and Waterloo Street Railway at King street in the town of Berlin, Ontario, authorized by the order of the Railway Committee of the Privy Council, dated the 10th October, 1895, and that the said Berlin and Waterloo Street Railway Company bear any increased cost of operating the protective appliances at the said crossing, entailed by the carrying out of this order beyond the cost of protection at the said crossing prior to the use of the crossing by the electric cars of the said Berlin and Waterloo Street Railway Company.

794. Application of the Canadian Northern Ontario Railway Company, under section 237 of the Railway Act, for authority to place its lines or tracks across Winchester street, Toronto, at rail level.

795. Application of the municipal corporation of the town of Brampton, Ontario, under section 250 of the Railway Act, for authority to lay sewer pipes under the tracks of the Canadian Pacific Railway Company at Queen street, in the town of Brampton, Ontario.

796. Application of the municipal corporation of the town of Brampton, Ontario, under section 250 of the Railway Act, for authority to permit the applicants to lay a ten-inch sewer pipe under the tracks of the Grand Trunk Railway, in the village of Brampton, Ontario.

797. Application of the Cataract Electric Company, under section 194 of the Railway Act, 1903, for leave to place its wires across the tracks of the Canadian Pacific Railway Company at the Town Line road, in the town of Orangeville, Ontario.

798. Application of the Cataract Electric Company, Limited, under section 194 of the Railway Act, 1903, for leave to carry, place and maintain its wires across the tracks of the Canadian Pacific Railway oCmpany in the township of Caledon, county of Peel, province of Ontario.

799. Complaint of the Canadian Pacific Railway Company *in re* the signals where the Canadian Pacific Railway crosses the Grand Trunk Railway west of Woodstock, Ontario.

800. Application of the Canadian Pacific Railway Company, under the Railway Act, for an order approving of the rearrangement of the tracks of the Canadian Pacific and of the Toronto Belt Line Railway and the installation of a standard diamond in the crossing, at rail level of the tracks of the applicant company by those of the Toronto Belt Line Company (leased and operated by the Grand Trunk Railway) on the Don Improvement, in the city of Toronto; and for an order directing payment by the Toronto Belt Line Railway to the applicant company of certain wages paid by the applicant company for work in the rearrangement of the said tracks and the installation of the said diamond.

801. Application of the Canadian Pacific Railway Company, under section 172 of the Railway Act, for authority to expropriate additional lands belonging to Robert Gordon, of Renfrew, Ontario.

802. Application of the Grand Trunk Railway Company of Canada, under section 178 of the Railway Act, for authority to take certain additional lands, being part of lot 5, 1st concession, township of Blenheim, county of Oxford, province of Ontario.

803. Application of the Canadian Pacific Railway Company, lessee of the Guelph and Goderich Railway, under section 178 of the Railway Act, for authority to expropriate the easterly half of lot 1049, the property of Evangline Hawley, of th e town of Goderich, Ontario.

804. Application of the Canadian Pacific Railway Company, lessees of the Walkerton and Lucknow Railway Company, for authority to expropriate additional lands required for ballast pit, lots 28 and 27, concession 1, South Township Glenelg, belonging to John McArthur.

805. Application of the Brantford and Hamilton Electric Railway Company, under section 227 of the Railway Act, for approval of crossing of the Brantford Street Railway, near Mohawk Park, township of Brantford, Ontario.

806. Application of the Canadian Northern Railway Company, under section 45 of the Railway Act, for an order amending the order of the Board, No. 558, dated the 18th July, 1905, approving and sanctioning the location of the Canadian Pacific Railway Company (Wolseley-Reston branch) so far as it affects the land covered by the Hartney-Regina branch of the applicant company.

807. Application of the Quebec, Montreal and Southern Railway Company, under the Railway Act, for an order directing the Rutland Railroad Company to change its existing derails at or near the junction point of its line with that of the applicant company and that of the Grand Trunk Railway Company of Canada at Noyan Junction, province of Quebec, by removing one of the said derails to a point about 500 feet, and adding a 'Hayes' derail on the Grand Trunk Railway Company's track.

808. Application of the Grand Trunk Pacific Railway Company, under section 227 of the Railway Act, for authority to lay its tracks over the line of the Canadian Pacific Railway Company (Pheasant Hills branch), section 27, township 29, range 22, west 2nd meridian, district of Assiniboia, province of Saskatchewan.

809. Application of Alexander Pilon, of Casselman, Ontario, for an order directing the Canada Atlantic Railway Company (Grand Trunk Railway) to provide and construct a branch line or siding 340 feet in length from the northerly side of its main line, at a point three miles west of the village of Casselman, Ontario.

810. Application of the Vancouver, Victoria and Eastern Railway and Navigation Company, under section 178 of the Railway Act, for authority to expropriate additional lands required by the applicant company through a portion of lots 17-16, 25, 440, 15, 24, 23, group 2, New Westminster district, for the purpose of the diversion of the River road in the municipality of Delta, B.C.

811. Application of the Canadian Pacific Railway Company, under sections 222 and 237 of the Railway Act, for an order authorizing the applicant company to construct, maintain and operate a branch line of railway or spur from a point on its most southerly track northwest of its stockyards on the Richmond road, in the city of Ottawa, Ontario, situate about 340 feet northeasterly and easterly through its station yard across the property of William J. Campbell and across a track of the Grand Trunk Railway on the northwest side of said Richmond road, and to and into the property of Mr. W. J. Campbell, to a connection with a spur of the said Grand Trunk Railway Company on the property of the said William J. Campbell for a total length of 570 feet.

812. Application of the Grand Trunk Railway Company of Canada (Canada Atlantic division), under sections 222 and 237 of the Railway Act, for authority to construct, maintain and operate a branch line of railway or siding extending from a point on the applicant company's line of railway on Richmond road, in the city of Ottawa, Ontario; thence northeast across parts of lots 38 and 39, concession A, township of Nepean, now in the city of Ottawa, to the premises of W. J. Campbell, and marked 'proposed siding No. 2' on the plan, profile and book of reference filed with the board.

813. Application of the Canadian Pacific Railway Company, under sections 284 and 317 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to receive passengers and baggage cars of the applicant company and deliver the same to the applicant company at the point of junction of the tracks of the Ottawa, Northern and Western Railway Comapny (leased to the applicant company) with the tracks of the Canada Atlantic Railway Company (leased to the Grand Trunk Railway Company), near Sappers bridge, in the city of Ottawa, Ontario.

814. Application of the Canadian Pacific Railway Company, lessee of the Georgian Bay and Seaboard Railway, under section 177 of the Railway Act, 1903, for an order authorizing it to construct, maintain and operate a crossing of the track of the Grand Trunk Railway Company's spur to an ice house near the town of Orillia, on the shore of Lake Couchiching, in the township of South Orillia, at mileage 29 of the Georgian Bay and Seaboard Railway Company's location.

815. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for authority to construct a branch line at or near the town of St. Lambert, Quebec, between the second and fourth district of railway, such branch line of connection extending from a point on its railway from Montreal to Rouse's Point, on lot 259 of the town of St. Lambert; thence northeast and crossing Victoria avenue, St. Lambert, a public highway known as Petite street, Charles road, or Coté de Noir road, and lot 246 in the parish of St. Antoine de Longueuil, to a point on its railway from Montreal to Portland on said lot 246.

816. Application of the Grand Trunk Railway Company of Canada, under section 178 of the Railway Act, for authority to take certain lands at St. Hubert station, the property of Joseph Charron, lot 32, Coté N.E. du Chemin de Chambly, on which to move and place the present passenger station at that point.

817. Application of the Grand Trunk Railway Company of Canada, under section 167 of the Railway Act, for approval of plan, profile and book of reference of a new

freight terminal which the applicant company proposes to construct at or near St. Lambert, in the parish of St. Antoine de Longueuil, county of Chambly, province of Quebec.

818. Application of the Grand Trunk Railway Company of Canada, under section 178 of the Railway Act, for authority to take additional certain lands at St. Antoine de Longueuil, in the county of Chambly, Quebec, required for the purposes of the applicants.

819. Application of the Montreal and Southern Counties Railway Company, under sections 157 and 158 of the Railway Act, for approval of highway crossing in the town of St. Lambert, Quebec.

820. Application of the Grand Trunk Railway Company of Canada, under section 227 of the Railway Act, for authority to cross with two tracks leading from its main line at Turcot to its new freight yards and terminals at Turcot, the tracks of the Montreal Park and Island Railway Company, at two different points, namely, near the eastern and western extremities of said freight yards.

821. Application of the Canadian Pacific Railway Company, under sections 221, 222, 227 and 237 of the Railway Act, for leave to construct branch lines in the city of Montreal, Que.

1. To the premises of Shearer, Brown & Wallace, crossing St. Patrick and Island streets; and

2. To the premises of the Sherman-Williams Paint Company, crossing St. Patrick street and connecting with the spur of the Grand Trunk Railway Company.

822. Approval of tariffs of tolls of express companies pursuant to the provisions of section 348 of the Railway Act.

823. The application of the Board of Trade of Portage la Prairie, in the province of Manitoba, under section 323 of the Railway Act, for an order disallowing the special freight tariffs of the Canadian Pacific Railway Company Nos. W-1000 C.R.C. 644 and W-1006, C.R.C. 652, as being illegal. The complaint of the Winnipeg and other boards of trade, mercantile bodies and shippers objecting to the new tariffs recently put in force by the Canadian Pacific Railway Company in Western Canada in substitution for the 'traders' tariff,' so-called, previously in existence.

824. In the matter of the transfer of mails and passengers between the trains of the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company at Brockville, in the province of Ontario, as required by order of the Board No. 4124, dated December 10, 1907.

825. Application of the Brunette Sawmill Company, Limited Liability, for an order changing the plan of location of the Vancouver, Westminster and Yukon Railway Company across lots 1 and 2, suburban block 1, and lots 4, 5 and 7, suburban block 8, in the city of New Westminster, in the province of British Columbia.

826. Application of the town of Thorold for an order, under section 250 of the Railway Act, to allow the corporation to lay its water pipes under the tracks of the Toronto, Niagara and St. Catharines Railway in said town.

827. Application of the Hamilton, Waterloo and Guelph Railway Company for the approval of amended location through the city of Hamilton.

828. Application of the corporation of the village of Papineauville, Quebec, to construct a street crossing the tracks of the Canadian Pacific Railway Company in the said village.

829. Application of the Brantford and Hamilton Electric Railway, under the Railway Act, for an order to vary or amend order of the Board No. 4165, dated the 26th of December, 1907, approving the location of the Niagara, St. Catharines and Toronto Railway in the city of Brantford.

830. Application of the Canadian Northern Ontario Railway Company, under section 237 of the Railway Act, for an order authorizing the diversion of the Montreal and Ottawa road in the township of Clarence, county of Russell, mileage 37.13 from Hawkesbury.

831. Application of the Canadian Northern Railway Company for leave to take part of the east half of lot 33 in the township of Clarence, county of Russell.

832. Application of the Mount McKay and Kakabeka Falls Railway, under section 227 of the Railway Act, for authority to cross the tracks of the Grand Trunk Pacific Railway at Yonge street and Montreal street, in the city of Fort William, Ontario.

833. Application of the Mount McKay and Kakabeka Falls Railway, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Francis street, in the city of Fort William, Ontario.

834. Application of the Mount McKay and Kakabeka Falls Railway, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway Company at McTavish street in the ctiy of Fort William, Ontario.

835. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway at Yonge street, in the city of Fort William, Ontario.

836. Application of the Mount McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Yonge street, in the city of Fort William, Ontario.

837. Application of the Brantford and Hamilton Electric Railway Company for an order, under sections 227 and 226 of the Railway Act, approving of the proposed crossing of the applicant's railway over the Tilsonburg branch of the Grand Trunk Railway Company, in the city of Brantford, and also approving of the proposed crossing of the applicant's electrical power, trolley and feeder wires over the said branch of the Grand Trunk Railway Company at the point of intersection of the two roads aforesaid in the city of Brantford. (Adjourned *sine die.*)

838. Application of the Canadian Pacific Railway Company, as lessee of and exercising the franchises of the Ontario and Quebec Railway Company, for an order, under sections 221 and 223 and 235 to 237 of the Railway Act, to construct, maintain and operate a branch line of railway or spur in the parish of Lachine, county of Jacques Cartier and province of Quebec, from a point on the centre line of the Lachine Canal south bank branch of said railway, about 2,900 feet northeasterly from the head lock of the said branch, near Highlands, thence easterly and northeasterly across public road to and into the premises of the Standard Paint Company of Canada, Limited, situated on lot No. 954 of said parish of Lachine, a total distance of about 580 feet, as shown in red on the plan with profile and described in the book of reference sent in duplicate in accordance with the provisions of said sections.

839. Application of the Bell Telephone Company of Canada for approval of contract between the telephone company and the Windsor Hotel Company, Montreal, Quebec, *re* telephone tolls.

840. Application of the Bell Telephone Company of Canada, under section 359 of the Railway Act, for an order to vary the joint tariffs of telephone service furnished by the applicant company jointly with the American Telephone and Telegraph Company by eliminating all tolls or charges for services known as 'day rates,' shall be in effect during the twenty-four hours of each day.

841. Complaint of Dr. Charette, mayor of Notre Dame des Neiges, of the failure on the part of the Montreal Park and Island Railway Company to file and receive approval by the Board of its standard passenger tariffs and that the Montreal Park and Island Railway charges passenger fares of five cents each from points in the city of Montreal to Bellingham avenue, and an additional ten cents each from Bellingham avenue to Cote des Neiges, while it previously sold tickets at the rate of six for 25 cents for transportation to Notre Dame des Neiges.

842. Application of the Walkerton and Lucknow Railway Company, under section 237 of the Railway Act, for leave to carry its line of railway across the following

streets and highways in the town of Durham, county of Grey, in the province of Ontario:—College street, Bruce street, Countess street, Garafraxa street, Elgin street, Kincardine street and Rock street.

NOTE.—In connection with the above application will be heard the application of the town of Durham for the construction of the protection to be afforded at the said crossings.

843. Complaint of Frank A. Cutting, of Boston, Mass., respecting freight rates charged by the Canadian Pacific Railway Company on shipments of bark from points on its Atlantic division in New Brunswick to Boston, Mass.

844. Application of the corporation of the city of Peterborough, under section 237 of the Railway Act, for leave to construct a highway as a continuation of George street, an existing highway in the city of Peterborough to cross the line of the Grand Junction division of the Grand Trunk Railway Company of Canada, in the city of Peterborough.

845. Application of the Grand Trunk Railway Company of Canada for leave to construct, maintain and operate a branch line of railway extending from a point on the applicant company's railway, south of Rink street in the city of Peterborough, province of Ontario, thence northerly across Rink street, lots Nos. 9, 10, 11, 12, 6, 7 and 8 north of Rink street and south of Townsend street, Aylmer street and Townsend street, lots Nos. 7, 6 and 5 north of Townsend street, lots 5, 4, 3, 2 and 1 south of Wolfe street and George street to the industrial and manufacturing premises of the George Matthews Company, Limited, of Peterborough.

846. Application of the Grand Trunk Railway Company of Canada, under sections 222 and 237 of the Railway Act, for leave to construct, maintain and operate two branch lines of railway or spurs from a point on the applicant company's railway on Bethune street, in the said city of Peterborough;

One crossing Bethune street to lot No. 9 north of Dalhousie street, and No. 2 crossing Bethune street to lot No. 9 north of Wolfe street, in the said city of Peterborough.

847. Application of the corporation of the city of Peterborough, under sections 237 and 238 of the Railway Act, directing the Canadian Pacific Railway Company to provide for the protection and maintenance of the highway at the level crossings of the said railway with Aylmer street, in the city of Peterborough.

848. Application of the corporation of the city of Peterborough, under sections 237 and 238 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to provide protection at the level highway crossing of the said railway at Reid street, in the city of Peterborough.

849. Application of the Peterborough Radial Railway Company, Peterborough, Ontario, under the Railway Act for an order amending section 7 of the order of the Board dated 16th day of June, 1904, by providing that the derails at the crossing of the tracks of the Grand Trunk Railway Company at Lock street in the city of Peterborough, be placed at a distance of fifty feet on each side of the crossing instead of one hundred feet, as provided by said section.

NOTE.—In this connection will be considered the complaint of the Grand Trunk Railway Company of Canada with respect to protection at Charlotte and Water streets in the city of Peterborough.

850. Application of the corporation of the town of Waterloo, Ontario, for an order under sections 30 and 32, repealing, rescinding or varying an order made by the Railway Committee of the Privy Council, dated September 27, 1907, and directing the Grand Trunk Railway Company to furnish protection by means of gates or otherwise at the crossing at King street, Waterloo, Ont.

851. Application of the Canadian Pacific Railway Company, under section 186 of the Railway Act, 1903, for leave to cross with its Sudbury-Kleinburg branch, certain highways in the town of Vespra, in the county of Simcoe.

852. Application of the corporation of the city of Hamilton for an order, under the Railway Act, directing the Toronto, Hamilton and Buffalo Railway Company to provide and construct a suitable highway bridge over the tracks of the company at the intersection of the line of the company at Garth street, in the city of Hamilton.

853. Application of the Canadian Pacific Railway Company as lessee of the Toronto, Grey and Bruce Railway for an order, under section 327 of the Railway Act, authorizing the company to cross with its grade revision the road lands between lots 10 and 11, concession 8 of the township of Vaughan, county of York, at mile 12.55.

854. Application of the Grand Trunk Railway Company of Canada, under section No. 277 of the Railway Act, for leave to cross with its spur the track leading off the twentieth district of the applicant company's railway, the spur track of the Canada Southern Railway in the applicant company's south yard at Fort Erie, Ontario.

885. Application of the corporation of the city of Toronto, under sections 237 and 238 of the Railway Act, for an order directing the Grand Trunk Railway Company to provide and maintain gates and a watchman at the crossing at Bloor street west by the tracks of the northern division of the Grand Trunk Railway Company of Canada..

856. Application of the Canadian Northern Ontario Railway for an order, under section 178 of the Railway Act, to take the following lands:—

1. That part of Park drive located on lot 19, concession 2, F.B., in the township and county of York, lying east of the westerly limit of the right of way of the Toronto Belt Line Railway and extending to its junction with Bayview avenue deviation.

2. That portion of Bayview avenue extending northerly from a point (33) thirty-three feet south of the north limit of the city of Toronto to the junction with Bayview avenue deviation on lot 20 in the said concession; all of Bayview avenue deviation as located on lots 20, 19 and 18 in the said concession and about four hundred and fifty-nine and eight-tenths (459⅘) feet of Bayview avenue, measured northerly from the south limit of Bayview avenue deviation at its junction with Bayview avenue near the limit between lots 18 and 19 in the said concession.

3. A trespass road in the city of Toronto on lots 15 and 16, concession 1, F.B., in the township and county aforesaid, extending northerly from Winchester street near the Canadian Pacific Railway subway to the south limit of Bayview avenue aforementioned, by substituting therefor a highway of sixty-six (66) feet in width extending from the most northerly limit of that portion of Bayview avenue herein sought to be closed to the north limit of Park drive aforementioned, passing under and to the west of the right of way of the Toronto Belt Line Railway and a highway eighty (80) feet in width, extending from the south limit of Park drive aforementioned across lots 19 and 20, concession 2, and lot 16, concession 1, F.B., to the junction with the Rosedale ravine drive.

857. Application of Jane Prittie to vary or rescind order of the Board No. 2336, dated the 12th of December, 1906, authorizing the construction and operation of a branch line in the town of Toronto Junction to the premises of the Union Stock Yards, Limited.

858. Application of the Grand Trunk Railway Company of Canada, under sections 242 and 257 of the Railway Act, for an order approving of the proposed bridge and approaches over highway known as Waterdown road, lot 12, 1st concession, township of East Flamboro', in the province of Ontario.

859. Application of the corporation of the town of Ingersoll for the protection of Thames street in the said town, and where it is crossed by the tracks of the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company.

860. Application of the corporation of the city of Chatham, under the Railway Act, for an order directing the Canadian Pacific Railway Company to provide, construct and maintain suitable gate or gates at the crossings of the said railway on Wellington and Centre streets, in the said city of Chatham, and electric bells or other automatic system of warning at the crossings of the said railway at Princess, Colborne,

Jeffrey, West and Lacroix streets, and further directing that a watchman be kept at each street crossing of the said railway where gates are now provided and maintained, namely, the crossing of King, Adelaide, William and Queen streets ,and also at the said crossings on Wellington and Centre streets.

APPENDIX D.

SUMMARY OF THE PRINCIPAL JUDGMENTS DELIVERED BY THE BOARD FROM FEBRUARY 1, 1904, TO MARCH 31, 1908.

No. 6.—The towns of Port Arthur and Fort William v. The Bell Telephone Company and the Canadian Pacific Railway Company.

The municipalities of these towns owned and operated a joint telephone system within the limits of the two towns, and applied to the Board under section 193 of the Railway Act, 1903, for an order directing the Canadian Pacific Railway Company to allow the installation of telephone instruments on the premises and in the railway stations of the company to connect with the municipalities' exchange.

In May, 1902, and prior to the enactment of section 193, an agreement was made between the railway company and the Bell Telephone Company, under which the telephone company, for valuable consideration, was granted, for a period of ten years, the exclusive privilege of placing telephone instruments, apparatus and wires in the several stations, offices and premises of the Railway Company in Canada, where the telephone company had established, or might, during the continuance of the agreement, establish telephone exchanges.

Hearing at Ottawa, February 16 and 29, 1904.

Judgment of Board, March 15, 1904.

Held, per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 205): That the said agreement was valid and not void or voidable as being in restraint of trade or against public policy, and that an order under section 193 should provide for payment of compensation upon just terms for all lawful rights and interests injuriously affected thereby.

Per Bernier, deputy chief commissioner: While the agreement is valid and compensation should therefore be allowed, the question of compensation should be reserved for future consideration and determined after hearing any case that might be presented by the Canadian Pacific or any other railway company in support of damages.

Per Mills, commissioner: That the agreement is in restraint of trade and against public policy, and that compensation should be awarded only for the use of the premises occupied by the municipalities' telephones, and the expense of operating them.

Order suspended pending further argument as to the question of compensation.

Upon questions of law the opinion of the chief commissioner prevails.—Section 10 of Railway Act, 1903.

A further hearing of this application on the question of compensation was had at Ottawa, October 12, 1904.

Judgment July 14, 1905.

Killam, Chief oCmmissioner (4 Can. Ry. Cas., p. 279): Held, adopting the former judgment of a majority of the Board.

Compensation should be made to the railway company for the use of its stations and the interference with its property consequent upon such installation.

Compensation should also be made to the telephone company for the loss of the exclusive privilege of telephone connection with such stations.

The effect on the exclusive agreement between the telephone company and the railway company of installing such a municipal telephone system must be determined by the law of the province of Quebec where the contract was made.

The installation of such a municipal system would not of itself rescind the exclusive contract between the telephone company and the railway company. At most its

only effect would be to give the injured party a right to have the contract rescinded. Quebec Civil Code, Art. 1065, Dupuis v. Dupuis, R. 72 R. 19 S.C. 500.

The evidence does not furnish a satisfactory basis of determining the compensation to be paid by the municipalities, and suggestions are made as to its ascertainment hereafter by the board or by arbitration.

Payment of such compensation, or the giving of proper security therefor, to both companies, should be a condition precedent to the installation of the system in each town.

Leave was given to state a case for the opinion of the Supreme Court whether the installation of the municipal system entitles the telephone company to a rescission of its contract with the railway company.

No. 66.—In the matter of the Shore Line Railway.

Complaint was made to the Board that the Shore Line Railway, running between the city of St. John and the town of St. Stephen, in New Brunswick, was unsafe for traffic. The board caused its inspecting engineer to make an examination of the said line of railway, and upon his report, made an order forbidding the running of trains, cars or engines over the railway between certain points named. Against this decision and order a protest was made on behalf of the New Brunswick Southern Railway Company, the company now operating what was and is still known as the 'Shore Line Railway,' upon the ground that the Board had no jurisdiction or authority to direct or enforce the stoppage of trains or the operations of said railway.

The undertaking of the Shore Line Railway Company was, by Act of the Parliament of Canada, chapter 63 of 58-59 Victoria, declared to be a work for the general advantage of Canada, and that Act provided that the Railway Act of Canada should apply to the compay and its undertaking instead of the laws of the province of New Brunswick and the Railway Act of that province.

Later, the Shore Line Company defaulted in the payment of its bonds. Proceedings were taken in the courts of New Brunswick, as a result of which the railway was subsequently sold, and the sale was followed by an Act of the New Brunswick Legislature, chapter 74, 1 Edward VII., incorporating the New Brunswick Southern Railway Company for the purpose of acquiring, holding and operating all or any part of the Shore Line Railway; and also all the capital stock, bonds, rights, franchises, powers and privileges, and properties of the said Shore Line Railway; and by chapter 102 of 3 Edward VII., an Act of the said legislature was passed confirming the deed of conveyance of the property and franchises of the Shore Line Company to the New Brunswick Southern Railway Company.

Judgment June 7, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 277):

A railway company incorporated under the laws of a provincial legislature, whose undertaking is afterwards declared to be a work for the general advantage of Canada, is subject to the exclusive control of the Parliament of Canada and the Railway Act applies. No provincial legisature can restore control, legislatively speaking, to the provincial legislature.

No. 220.—Duthie v. The Grand Trunk Railway Company.

This was an application by J. H. Duthie of Toronto, against the Grand Trunk Railway Company for relief on account of its action in detaining three cars loaded with coal at Belleville to enforce payment of charges for demurrage on car service, and, in default of payment, disposing of the coal by private sale and applying the proceeds in payment of the freight and storage charges.

Hearing at Ottawa, June 27, 1905.

Judgment, August 24, 1905.

Kilam, Chief Commissioner (4 Can. Ry. Cas., 305):

The Board of Railway Commissioners is a judicial, as well as an executive body, created to enforce the railway legislation of the Dominion Parliament, but not to supplant or supplement the provincial courts in the exercise of their ordinary jurisdiction. In making orders and regulations under sections 23 and 25 of the Act the board is not to adjudicate in respect to rights arising out of past transactions, but to lay down rules for future conduct. The board is not empowered to award damages or any other relief for any injury caused by an infraction of the Act, e.g., section 214.

Held, that any claim for damages for premature or improvident sale should be prosecuted by action in the provincial courts.

By the tariff of tolls approved by the Governor in Council under the Railway Act of 1888, railway companies were authorized to charge higher tolls than by a special tariff filed under the Act of 1903, which specifically provided for car service or demurrage charges. The latter were also recognized by the classification rules authorized by the Board and in force at the time in question.

Held, that the company not having sought to charge the maximum tolls approved by the Governor in Council (of the nature of a standard tariff) must be understood as having accepted the goods for carriage at lowest rates conditional upon its right to make a charge for demurrage.

Held, that the rate charged was prima facie reasonable and that no order should be made against the railway company.

Re Car Service Rules.

Numerous complaints and objections were presented to the Board respecting charges made by railway companies for demurrage or delay in the loading or unloading of cars by shippers or consignees, and the rules governing such charges.

The practice of railway companies, before the constitution of the Board, was to charge lower tolls on goods in carload lots than for less quantities. This practice was sanctioned by the freight classification and has been followed in the tariffs authorized by the Railway Act, 1903.

It appeared to the Board to be reasonable that railway companies which delivered cars to, or placed them at the disposal of, shippers or consignees, for loading or unloading, should have some means of limiting the time to be occupied in such loading and unloading, and should be authorized to impose a reasonable additional toll on traffic carried at carload rates for any detention or use of the cars or continued occupation of their tracks, beyond such time as would be reasonably required for loading or unloading. It was felt, too, to be important in the public interest as securing the fullest possible use of railway cars, tracks and equipment, that such delays should be discouraged.

With this object in view, and after giving every opportunity which was reasonably possible to the various interests affected to be heard upon the subject, the Board, by order dated January 25, 1906, abolished and disallowed all tolls or charges theretofore charged or imposed by any railway company subject to its jurisdiction, for delay in, or additional time used in, the loading or unloading of cars, whether under the name of demurrage car rental, or car service, or otherwise, and all rules regulating the same, substituting therefor the tolls and rules set out at length in the order. (See Appendix H).

Said order, and the rules therein set forth, came into force and took effect the first day of March, 1906.

No. 42.—The Sydenham Glass Company v. the Grand Trunk Railway Company, Canadian Pacific Railway Company, Lake Erie and Detroit River Railroad Company, Wabash Railway Company, Michigan Central Railroad Company, and the Hamilton, Toronto and Buffalo Railway Company.

This was an application by the Sydenham Glass Company for lower special rates than the special rates agreed to by the railways interested, and which applied on shipments of glassware, bottles, and lamp chimneys from Wallaceburg, Ontario, on the

line of the Père Marquette Railway Company to Toronto, Hamilton, Berlin, London, Ontario, and to Montreal, Quebec.

The original application covered the commodities named both in carload and less than carload lots, but on the hearing it was announced on behalf of the applicants that the application would be restricted to bottles in carloads.

Hearing at Toronto, June 20, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 409):

Bottles in carloads were formerly carried from Wallaceburg to Toronto, Hamilton, Berlin and Montreal at special rates less than the regular basis of fifth class. Upon the Railway Act coming into force on February 1, 1904, these special rates were increased.

It appeared that at the present rates the Glass Company cannot maintain its position in the home market against foreign competiion:—

Held, that the rates should be reduced to the following scale, viz.: to London, 8 cents; to Toronto, Hamilton and Berlin, 13 cents; to Montreal, 23½ cents.

21.—Scobell v. Kingston and Pembroke Railway Company.

Complaint alleged (1) that discriminative rates were imposed on the transportation of cedar lumber, railway ties and poles of all kinds made from cedar, and used for railway purposes; (2) that unreasonable and excessive rates were imposed on the transportation of the telegraph, telephone and trolley poles as compared with rates on lumber, &c.

Hearing at Ottawa, April 26, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (2 Can. Ry. Cas., p. 412).

It appeared that an increase had been made in the rates on cedar products without and material change in the rate on common lumber and similar products. This increase was made by the railway company to retard the shipment of cedar products required for its own use.

Held, a discrimination within the meaning of s. 253, s.s. 2,—the railway company ordered to cease from levying rates on cedar products in excess of the rates on other descriptions of lumber and their products. 'Common carriers in making rates cannot arrange them from an exclusive regard to their own interests, but must have respect to the interest of those who may have occasion to employ their services, and must subordinate their own interests to the rules of relative equality and justice.' (Reynolds v. Western N. Y. R. W. Co., 1 I.C. Rep. 685.)

No. 43.—The Sutherland-Innes Company and the Wallaceburg Cooperage Company v. the Père Marquette, Michigan Central, Wabash, Grand Trunk, and Canadian Pacific Railway companies.

This was a complaint against the increase of rates by the railways named on cooperage stock between points in eastern Canada, and more especially to the increase from Wallaceburg and other western Ontario points to Montreal for local delivery and for export.

Hearings at Toronto, June 20 and 23, 1904.

Judgment of Board, July 30, 1904.

Per Blair, Chief Commissioner (2 Can. Ry. Cas., p. 412):

Held, that rates on cooperage stock should not exceed rates on common lumber according to the mileage lumber tariffs of the railways, but such rates when specially reduced on account of water competition, &c., need not necessarily apply to cooperage stock. From points in western Ontario to Montreal, the maximum rate for local delivery was fixed upon the evidence at 16½ cents, and for export, including 'terminal,' at 18 cents per hundred pounds.

No. 48.—Tower Oiled Clothing Company's case.

Application by the Tower Oiled Clothing Company, of Toronto, for a carload rating on oiled clothing, shipped in carload lots.

It appeared that carload shipments had been made from Toronto to Halifax for fishermen's use, and it was alleged that shipments might also be made to the Canadian Northwest for ranchers' use if the application were granted.

Hearing at Toronto, June 28, 1904.

Judgment of Board, July 30, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 417):

Held, that although the discrimination involved in the difference between C. L. and L. C. L. rating has received tacit assent, a shipper has not thereby the right to demand a lower rate on carloads, unless possibly he can show that the carload rate demanded would pay reasonably for the service and that a refusal would injure his business. Upon the evidence a third-class rate for carloads of not less than 20,000 pounds from Toronto to Halifax, Winnipeg and Calgary and other points reached by applicants was ordered.

No. 22.—The United Factories (Limited) v. The Grand Trunk Railway Company.

Complaint alleged that a rate of 3 cents per 100 lbs. on logs from Penetanguishene to Newmarket, which the railway company had maintained for a number of years, from 1895 to November, 16, 1903, conditional that the product of the logs should be delivered for carriage to the Grand Trunk Company, was, on November, 16, 1903, increased to 4 cents per 100 lbs., but subject to the same condition.

Hearings at Otawa, April 28 and May 6, 1904.

Judgment of Board, October 10, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 424):

Held, that since the increased rate is neither unjust, unreasonable nor contrary to some provision of the Railway Act, the application must be refused.

No. 23.—*Re* The Canadian Freight Association and Industrial Corporations.

This was an application by the Canadian Freight Association, on behalf of all the railways in Canada, under subsection 4 of section 275 of the Railway Act, 1903, for permission to make concessions from the current rates on material for construction and machinery for equipment of new industrial plants.

Certain of the railway companies, members of the Association, had been in the habit of granting a reduction of 25 per cent on the rates on such material, &c.

Judgment, October 10, 1904, refusing application.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 427):

That although the Board is prepared to give due affect to subsection 4 of section 275 of the Act, it must have a separate and distinct application in such case, so as to judge of the effect of its order upon other industries, shippers and dealers.

No. 44.—Ontario Fruit Growers' Association v. Canadian Pacific Railway Company *et al.*

Complaints alleged (1) unreasonable and excessive freight rates on fruits and (2) that the charges for icing in transit were too great.

Hearings at Toronto, June 21, 23 and 24, 1904.

By agreement between complainants and the railway companies, the following modifications were made in the classification: —

(*a*) Apples in boxes less than carloads, from 2nd to 3rd class.

(*b*) Pears in boxes and barrels, L.C.L., from 1st to 3rd class, and in carloads from 3rd to 5th class.

Also the following commodity rates:—

(*c*) On fresh fruits (small), from the fruit districts to points in Eastern Ontario, Quebec, and the maritime provinces, fresh fruit shall be carried at 4th class rates in

carloads of not less than 20,000 lbs. instead of 3rd class rates, and at 2nd class rates in L.C.L. of 10, 000 lbs. and over instead of 1st class rates.

(*d*) And from points in Ontario and Quebec to Winnipeg, Portage la Prairie and Brandon, at fourth-class rates in carloads of not less than 20,000 pounds, instead of third class.

Approved by Board.

Judgment, October 10, 1904.

Blair, Chief oCmmissioner (3 Can. Ry. Cas., p. 430):

Held, that the present system of making fixed charges for icing cars, irrespective of the actual cost of such service, is not based on sound principle, and must be discontinued; that the actual cost of the ice and the placing thereof in the cars should not be exceeded. Pending a decision of the Board upon further consideration as to a reasonable charge, a charge of not more than $2.50 per ton of 2,000 pounds on the actual weight of the ice supplied was, in this instance, authorized.

No. 55.—The Pea Millers' Association v. Canadian Railway Companies.

The Pea Millers' Association complained that the railways charged higher rates from Ontario milling points to the sea-board on split peas for export than they charged on other grain products, such as flour and rolled oats for export.

Split peas for export were formerly carried upon the flour basis. The advance complained of commenced in October, 1902, and was made apparently under pressure. The McMorran Company, of Port Huron, complained to the Interstate Commerce Commission that Canadian railways were carrying split peas for export at the grain product rate, while it had to pay the higher rate of the Michigan roads.

The Michigan railroads opposed any reduction in their rates, and the result was that the rate was advanced on the Grand Trunk and other railways in Canada.

Hearing at Ottawa.

Judgment of Board, October 10, 1904.

Per Blair, Chief Commissioner (3 Can. Ry. Cas., p. 433):

That the former basis of rates must be restored.

No. 124.—In *re* application of the Grand Trunk Railway Company for permission to make reduced rates on coal used for manufacturing purposes.

This was an application by the Grand Trunk Railway Company, under subsection 4, section 275, of the Railway Act, for authority to continue a difference in the rate of freight on bituminous coal of ten cents per ton between certain points on its line of railway, such reduced rates being in favour of the manufacturer as compared with that charged to the dealer or consumer.

The applicant company had been in the habit of allowing a rate of 80 cents per net ton on bituminous coal used for manufacturing purposes at Cobourg, carried from the Niagara frontier to Cobourg while the usual and customary rate was 90 cents on coal carried between the same points for other shippers and used for domestic purposes.

The company justified the difference in the rate on the ground that certain manufacturers in Cobourg would be unable to pay the higher rate and carry on business successfully.

Judgment, October 10, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 438):

That no evidence has been offered to sustain this claim; but even if proved, the reduction could not be allowed. The allowance of a reduction in the freight rate on any article of merchandise to one class of shippers, and the refusal of the same rate to another class, is unjust discrimination, and forbidden by section 252.

(Castle v. B. & O. R. W. Co., 8 I. C. Rep., 333, approved.)

No. 56.—The Almonte Knitting Company v. the Canadian Pacific Railway Company and the Michigan Central Railroad Company.

The Almonte Knitting Company complained that the rates on coal to Almonte from the Niagara and Detroit frontiers were unreasonably high as compared with the rates to Carleton Junction, Ottawa, and adjacent stations. The rate to Carleton Junction, Ottawa, and adjacent stations is $2 per ton from the Niagara frontier, and $2.25 from Detroit, while the rate to Almonte is 40 cents higher, points on the lateral line from Carleton Junction being charged an arbitrary rate above the rate to Carleton Junction.

Hearing at Toronto, June 28, 1904.

Judgment of Board, October 10, 1904.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 441):

Under certain conditions rates to a point on a branch or lateral line may be higher than to points on the main line, though at a less distance from the junction point; but such rates must not be unreasonable or disproportionately higher than to nearer points on the main line.

Held, that the circumstances warrant a higher rate to Almonte than to Carleton Junction and Ottawa; but as the arbitrary rate to Almonte on 10th class traffic was only 1 cent per 100 pounds (20 cents per ton) it must not be exceeded on coal between the same points.

No. 46.—*Re* metallic shingles.

This was a complaint by the Canadian Manufacturers' Association objecting to the approval by the Board of the Canadian Freight Classification No. 12, which, among other changes and additions, advanced metallic shingles from 7th to 5th class in carloads.

This classification No. 12 was issued by the railway companies in 1903, and superseded all previous classifications. It had never been approved by order in council, but was provisionally sanctioned by order of the Board of July 16, 1904, pending consideration of some of the objections raised.

From January 1, 1884, when the first Canadian joint freight classification was issued, until November 1, 1884, none of these commodities were specially classified; but, on a later date, a circular was issued by the railway companies making certain changes and additions by which, among other things, they placed metallic shingles in packages as L.C.L. 3, C.L. 5. This rating continued in force until March 1, 1883, when a reduction of one class was made, namely to L.C.L. 4 C.L. 6.

In May, 1890, a further reduction was made on carloads, and until March, 1901, the classification stood at L.C.L. 4, C.L. 7.

In March, 1901, the rating was placed at L.C.L 4, C.L. 5.

The complainants set up that these goods were in the 7th class for over ten years; that the change was never sanctioned by order in council; that no substantial reason had been shown for the advance; and that the retention of the previous classification was necessary in order to enable the complainants to compete on fair terms with wooden shingles, siding, &c.

The railway companies claimed that the former classification was a mistake; that the proper class in which to place such commodities was the 5th class; that the plate, which is the raw material used in the manufacture of these articles, was in the 5th class; and that it was both unreasonable and unfair to the railway companies to place the manufactured article in a class for which the rates are lower than those upon the raw material from which the article is made; and, also, that articles of the 7th class were then carried at lower rates than those at which articles of that class were carried when these particular commodities were in the 7th class, and that they should not be obliged to lower their rates on these goods.

Hearings at Toronto, June 23, 24 and 28, 1904.

Judgment, June 29, 1905.

Killam, Chief Commissioner: Held, that the reasonable and fair course would be to establish for these articles commodity rates equal to those at which they were carried immediately before the change of classification in March, 1900.

No. 133.—*Re* St. Pierre & Company and Temiscouata Railway Company.

This was a complaint by George St. Pierre & Co., of Fraserville, Que., alleging that the Temiscouata Railway Company was unjustly discriminating against the complainants in the matter of its freight rates, and applying for an order directing the railway company to revise and lower its freight rates.

Hearing at Rivière du Loup, April 19, 1905.

Judgment, July 5, 1905.

Killam, Chief Commissioner: The rates charged by the Temiscouata Railway Company were not unreasonable in view of the nature of the country which the railway traversed and of its traffic.

The standard freight tariff of the company was identical with the standard tariffs of the Grand Trunk Railway Company, the Canadian Pacific Railway Company, the Canada Atlantic Railway Company, and most of the other railways in the provinces of Ontario and Quebec, an dthe same, also, as that of the Intercolonial Railway between its stations west of Lévis.

The rates charged in the special tariff filed by the Temiscouata Railway Company on various commodities such as are authorized by section 260, subsection 2, of the Railway Act, compared favourably with the joint tariffs on the same commodities issued by the Grand Trunk Railway Company and the Canadian Pacific Railway Company, in the province of Quebec, except such rates as were rendered necessary by competitive conditions and which did not prevail on the Temiscouata Railway.

The Temiscouata Railway Company had no special commodity tariff for grain and grain products in carloads.

Held, that in accordance with the common practice of other railway companies and in the interest of lumber camps upon or near its line, the Temiscouata Railway Company should prepare such a tariff on an equitable basis.

It appeared that the Temiscouata Railway Company had, previous to July, 1904, a proportional tariff on various classes of goods (according to the Canadian freight classification from Rivière du Loup and Edmundston,on through shipments from points beyond, and it now charges on this through business its full standard rates as on strictly local business, except on some traffic to Edmundston.

Held, that the company should state its reasons for withdrawing this proportional tariff, and on what grounds, if any, it objected to restoring it.

No. 2.—The Brant Milling Company v. the Grand Trunk Railway Company.

This was an application by the Brant Milling Company for an order 'allowing and instructing the Grand Trunk Railway Company to continue' an allowance heretofore made by the railway company for the cost of cartage on flour and feed shipped from the company's mill out of Portland and to Montreal and other points in the eastern part of Canada.

The allowance was withdrawn after the Railway Act, 1903, came into force, and it was claimed that its continuance was necessary to the existence of the applicant's business.

Hearing at Brantford, April 26, 1904.

Judgment, July 13, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., 259).

The Railway Act, 1903, requires equality in the tolls charged under substantially similar circumstances, and forbids discrimination between individuals, persons, companies and localities. Sec. 252.

No variation from the authorized tariffs of tolls can be made unless under circumstances or conditions specially provided for in such tariffs or by special tariffs of general application and not discriminating between different localities. Secs. 261, 262.

Held, that the application either for a continuance of the allowance previously made, or for a change in the authorized tariffs of tolls, in favour of the applicant alone, must fail.

Manufacturers' Coal Rate Case, 3 Can. Ry. Cas. 438 referred to; Stone v. Detroit, &c., 3 I. C. Rep. 613; Hezel Milling Company v. St. Louis, &c., 5 I. C. Rep. 57; *re* division of joint rates, 10 I. C. Rep. 681, followed.

No. 222.—Coal rates—Midland to Orillia.

Complaint of F. W. Grant alleging that the rates on coal from Midland to Orillia, Ont., charged by the Grand Trunk Railway Company, are excessive as compared with the rates from Suspension Bridge, Ont., to the same point.

Hearing at Ottawa, June 28, 1905.

Judgment, September 4, 1905.

Killam, Chief Commissioner: The Board has found great want of uniformity in the rates charged by railway companies for the carriage of coal for short distances, and proposes to ascertain, if possible, whether this want of uniformity is unreasonable, or whether some attempt should be made to harmonize the rates for similar distances. In the meantime, as the rate charged by the Grand Trunk Company for the carriage of coal from Midland to Orillia is not, in itself, an unreasonable rate, the Board will not interfere.

No. 263E.—Rates on stone from Stonewall and neighbouring points to Winnipeg.

This was a complaint by E. Williams & Co., A. Patterson & Co., Irwin & Son, and the Winnipeg Supply Company, alleging that the Canadian Pacific Railway Company, by increasing the rate on rubble and crushed stone from the complainants' quarries at Stonewall to Winnipeg from 2¾ cents per hundred pounds to 3 cents per hundred pounds, while continuing the rate of 2¾ cents to the Stony Mountain quarrymen, was unjustly discriminating against the complainants, and applying for an order (*a*) directing the railway company to restore the former rate of 2¾ cents from the complainants' quarries, or (*b*) fixing some other rate as a uniform rate from all the quarries on the Teulon branch.

Hearing at Winnipeg, September 13, 1905.

Judgment, November 23, 1905.

Killam, Chief Commissioner: In view of the facts that the traffic from Stonewall was carried for many years at the lower rate; that the railway company itself made its first rate from Gunton to Winnipeg the same, and that a promise had been made by the second vice-president of the company to some of the complainants that the 2¾ cent rate from Rockspur to Winnipeg would be protected, the Board was of opinion that that rate was a reasonable one. That opinion was strengthened be reference to the rate of 2½ cents per 100 pounds charged by the same railway company for carriage of similar traffic from Milton, Campbellford, Credit Forks, Schaw and Orangeville to Toronto, at distances varying from 33 to 49 miles. (Stonewall is 20 miles, Rockspur 34 miles from Winnipeg.) The question of the propriety of the rates from Stony Mountain to Winnipeg should not now be considered.

Held, that a higher rate than 2¾ cents from Gunton, Rockspur and Stonewall was unreasonable, and that an order would go directing the disallowance of the 3 cent rate and the restoration of the 2¾ cent rate.

No. 8.—The Niagara, St. Catharines and Toronto Railway Company v. the Grand Trunk Railway Company.

This was an application by the Niagara, St. Catharines and Toronto Railway Company, under section 177 of the Railway Act, 1903, which empowers the Board to order that a junction may be made of the tracks of one company with the tracks of another company, upon such terms, at such places, and in such manner as the Board may determine, to intersect with its line the railway of the Grand Trunk Railway

Company, called the Allanburg branch line or cut-off, to form a junction with the Grand Trunk Allanburg branch line at Stamford.

The evidence disclosed the fact that an agreement had been entered into between the Grand Trunk Company and the Wabash Railroad Company—the application was, in fact, a joint one by the Niagara, St. Catharines and Toronto and the Wabash Company—under which the Grand Trunk Railway granted the Wabash Company the joint user in common with itself of the Allanburg branch for a term of twenty-five years, and that the Wabash Company was then in use and possession of the said Allanburg branch jointly with the Grand Trunk Company upon the terms and conditions contained in the memorandum of agreement.

Hearing at Ottawa, March 8, 1904.

Judgment, April 5, 1904, granting order applied for.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 256):

The object of the Railway Act (sections 177, 253 and 271) is to insure that all reasonable and proper facilities for the handling, forwarding and interchange of traffic shall be afforded to the shipping public. For this purpose the Board may, without the sanction and against the will of a railway company, permit a junction to be made with its line by another railway where in the opinion of the Board such junction is reasonably necessary in the public interest and in the interest of traffic in the district through which the railway passes. The parties to a lease of a railway cannot by stipulation between themselves restrict the powers or discretion of theBoard to authorize such a junction.

No. 9.—The Niagara, St. Catharines and Toronto Railway Company v. the Grand Trunk Railway Company.

Application by the Niagara, St. Catharines and Toronto Railway Company to rescind an order of the Railway Committee of the Privy Council, approving of the place of crossing by the branch line of the Grand Trunk Company's main line at Merritton to the paper and cotton mills in that village, of the main track of the Niagara, St. Catharines and Toronto Railway.

It was alleged in support of the application that the conditions imposed upon the Grand Trunk Railway Company, and upon which that company was allowed to make the crossing, had not been complied with—that the Grand Trunk Railway Company has not paid, but has refused to pay compensation for the lands of the applicant company, which are occupied by the crossing and with its switches and sidings by the Grand Trunk Company under the said order of the Railway Committee.

Hearings at Ottawa, March 11 and 22, 1904.

Judgment, April 5, 1904.—Application refused.

Blair, Chief Commissioner (3 Can. Ry. Cas., p. 263):

Where two railway companies differ as to the nature and extent of the protection prescribed by an order of the Railway Committee to be furnished at a crossing of two railways, and one company voluntarily provides the additional protection which it claims the other company should supply according to the terms of such order, the Board will not, by an ex post facto order, direct the payment by the other company of the expenditure thereby incurred, and in default of payment order that the crossing be discontinued. In such cases the proper course is to apply to the court for an interpretation of the order.

The order of the Railway Committee directed that an interlocking signal system and all the necessary works and appliances for properly operating the same be provided at such crossing.

Held, that derails do not form part of the appliances required by such order, and a permanent watchman is not necessarily required.

Compensation is not allowed (1) for the use of the land of the senior company occupied by the crossing tracks of the junior company where no substantial injury is done to the lands of the senior company; nor (2) for interference with the business of

the senior company, or for any other delays in the use of its railways due to precautions taken in the use of the crossing required for public safety. (S. 177, Railway Act, 1903.)

City of Toronto v. The Grand Trunk Railway Company and the Canadian Pacific Railway Company.

This was an application to the Railway Committee of the Privy Council made in June, 1900, by the city of Toronto for an order to authorize and ratify the construction and maintenance of the overhead bridge adjoining York street, in the city of Toronto, and crossing overhead the railway tracks on the Esplanade, and directing the terms as between the city and the two railway companies according to which the costs of the works were to be borne by the respective parties, pursuant to secs. 187 and 188 of the Railway Act, 1888.

The construction of this bridge, known as the York street bridge, was provided for by the 7th and 8th clauses of the Esplanade tripartite agreement, dated July 26, 1892, confirmed by Dominion statute 55 and 56 Vic., chap. 48.

The application not having been disposed of before the Railway Act, 1903, came into force, was heard by the Board on May 27, 1904.

By the said Esplanade agreement, the Canadian Pacific Railway Company agreed to build a highway over the tracks of the railway companies—the portion of the cost to be borne by each to be settled by arbitration or paid equally by the C.P.R. and the city, in case the Grand Trunk Railway was found to be exempt from, or entitled to, indemnity against liability for any portion of the cost.

The rights of the Grand Trunk Railway as to such exemption or indemnity were, by the agreement, to be decided by the submission to the court of a special case between the city and the Grand Trunk Railway.

After the bridge was built, and while an action brought by the city against the railway companies, in lieu of the special case, was pending, this application was made.

Judgment, August 19, 1904.

Blair, Chief Commissioner (4 Can. Ry. Cas., p. 62):

Application refused, the question involved not being of a public nature, but the settlement of a dispute of a private nature, which the parties, by their agreement, had left to be settled by the courts.

(The Merritton Crossing Case, 3 Can. Ry. Cas., 263, followed.)

No. 238.—James Bay Railway Company v. Grand Trunk Railway Company.

This was an application by the James Bay Railway Company, under section 177 of the Railway Act, 1903, for leave to place its tracks across the tracks of the Midland Division of the Grand Trunk Railway Company at a point near Beaverton, in the township of Mara, Ontario.

At the time the application was made and for several years previous thereto, the Grand Trunk Railway Company had a single track at the proposed point of crossing, and up to the time of the hearing that company had never suggested that it intended to lay down any other than the one track.

The matter was heard at Ottawa on August 29, 1905, and an order issued as of that date authorizing an undercrossing at the point named. The order provided that for the purpose of the crossing the Grand Trunk Railway should, at the expense of the James Bay Company, raise its tracks for such distance on each side of the crossing as the chief engineer of the Board should consider necessary to provide a proper grade and to such height (not exceeding two feet) over the then level of the tracks as the chief engineer should require. The order also provided that the masonry work of the undercrossing should be sufficient to allow of the construction of an additional track by the Grand Trunk Railway Company.

From this order the James Bay Company appealed to the Supreme Court of Canada on the question whether, under section 177 of the Railway Act, 1903, or other-

wise, the Board had jurisdiction to make the order, in so far as it directed the masonry work of the undercrossing to be sufficient to allow of the construction of an additional track on the line of the Grand Trunk Railway Company.

Appeal dismissed: 37 S.C.R. 372.

Later, by petition, dated May 8, 1906, the James Bay Railway Company appealed to His Excellency the Governor General in Council, under subsection 2 of section 44 of the Raliway Act, 1903, to vary the said order of August 29, 1905, by striking out the provisions requiring the James Bay Company to provide for a second track of the Grand Trunk Rialway Company.

This petition was also dismissed by order of the Privy Council, dated May 31, 1906.

No. 271.—Preston and Berlin Street Railway Company v. the Grand Trunk Railway Company.

This was an application by the Preston and Berlin Street Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Grand Trunk Railway Company at Caroline and Erb streets, in the town of Waterloo, Ontario.

In order to avoid the crossings applied for it was suggested at the hearing, on behalf of the town, that the Board should exercise the power it was alleged to possess under section 187 of the Act, and direct the Grand Trunk Railway Company to move its tracks so as to allow sufficient space for the running of the applicant company's line between Mr. Seagram's property and the line of the Grand Trunk Railway.

Hearing at Toronto, November 7, 1905.

Judgment, Killam, Chief Commissioner: The application to be dealt with at the present time is simply one to allow the two crossings at Caroline and Erb streets, and in the public interests the application must be refused. The Preston and Berlin Railway Company previously applied to the Board for leave to use a small portion of the Grand Trunk Railway Company's land in order to dispense with the crossing. The company was incorporated solely under the provincial laws, and the provision in the Railway Act giving the Board power to authorize the use by one company of the railway tracks or the land of another, applies only to a railway within the authority of the Board, authorized by Act of the Dominion Parliament, or a work declared to be for the general advantage of Canada.

The suggestion that the Board attempt to exercise a power to compel the railway company, which already had a crossing over the streets, to move that crossing, not for the protection of the public, but as a matter of convenience to another railway, might be worthy of some consideration, but does not arise on the present application.

The town might succeed in an application to have the tracks of the Grand Trunk Railway Company moved and have the highway extended so as to cover the land of the Grand Trunk between the corner of the Seagram building and the tracks and a portion of it that is not already a highway. I would not say what view the Board would take of it, nor how far it could be done with safety apart from the question of its being a proper exercise of the power under that section 187 that has been referred to. If the town wishes to do that they should make an application.

Later the application was renewed at the town of Waterloo, after the Board had an opportunity of examining the locality.

Judgment, Chief Commissioner: The Board finds that the inspection recently made of the locality has only confirmed its previous view that the crossings ought not to be allowed to be made; that the only apparent reason for such crossings is to enable the electric railway company to use property on which it desires to have its terminal station and yard, and that the Board does not consider this a sufficient reason for adding these two additional crossings so close together, and upon such a curve, to the other sources of danger in Waterloo; that the fact that the railway company has

chosen to so locate its terminal property, or that the council of the town of Waterloo is unwilling to alow the electric railway company to place its tracks on other streets does not seem sufficient to force the Board, in the exercise of the discretion conferred upon it by law, to a different conclusion than that which it deems proper in the public interest; that the Board regrets that the Grand Trunk Railway Company does not see fit to allow the electric railway company sufficient space for the running of its cars between Mr. Seagram's property and the line of the Grand Trunk Railway, but that the Board finds that it has no authority to compel the Grand Trunk Railway Company to allow the Preston and Berlin Company the use of any portion of the land of the Grand Trunk Railway Company.

This being so, any change in the line of the Grand Trunk Railway Company at the street crossings would be of no benefit to the Preston and Berlin Company.

No. 307.—Chatham, Wallaceburg and Lake Erie Railway Company v. Canadian Pacific Railway Company.

This was an application by the Chatham, Wallaceburg and Lake Erie Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway Company, lessee of the Ontario and Quebec Railway Company, at William and Raleigh streets, in the city of Chatham, Ontario.

By agreement made in 1888 between the town of Chatham and the Ontario and Quebec Railway Company, the company agreed to maintain on two streets gates and watchmen where the railway crosses the highway, and to permit crossings to be made over four streets by the Chatham Street Railway Company and such other companies or corporations as the town might from time to time authorize to consruct and run street railways in Chatham.

By by-law of the city of Chatham passed in 1905, the Chatham, Wallaceburg and Lake Erie Railway Company (incorporated by Act of Parliament of Canada, 3 Edw. VII., ch. 105) was authorized to lay down and construct a street railway in Chatham and was given extensive privileges of running passenger and freight cars by electric power on certain streets, including those crossed by the Ontario and Quebec Railway Company.

Hearing at Chatham, December 7, 1905.

Judgment, Killam, Chief Commissioner (5 Can. Ry. Cas., p. 175):

Held, that the applicants, although possessing greater powers than an ordinary street railway company, came within the terms of the agreement of 1888 as being a company authorized to construct and run a street railway in Chatham.

Held, also, that the consent of the railway company in the agreement of 1888, to permit crossings for street railway purposes did not amount to a consent to permit crossings for all purposes, nor require it to bear the cost of any extra precaution necessary in consequence of a street railway or other railway being built across its line, and that the extra expense incurred ought to be borne by the applicants.

No. 25.—City of Ottawa v. the Canada Atlantic Railway Company and Ottawa Electric Railway Company.

This was an application by the city of Toronto, made on October 8, 1905, to the Railway Committee of the Privy Conucil for an order directing the construction by the Canada Atlantic Railway Company of a subway under its tracks on Bank street and apportioning the cost of such work between the Canada Atlantic Railway Company and the Ottawa Electric Company. The application was transferred to the Board after the coming into force of the Railway Act, 1903.

The Ottawa Electric Railway Company, whose undertaking was declared by the Parliament of Canada a work for the general advantage of Canada, was authorized by order of the Railway Committee of the Privy Council, to cross the tracks of the Canada Atlantic Railway Company on Bank street, and by agreement the expense of protecting the crossing was borne equally between the two companies.

By an agreement dated June 20, 1893, between the city of Ottawa and the Ottawa Electric Railway Company, provision was made for the construction and operation of the works of the company over certain streets (including Bank street) of the city of Ottawa for a period of thirty years from the date of agreement. Under this agreement the company was obliged to pay the city annually the sum of $450 per mile of street occupied by its tracks for the first fifteen years, and the sum of $500 per mile thereafter.

By another clause in the agreement the company undertakes to pay $1,000 per mile on streets which are permanently paved. The agreement also provides that in the event of the city desiring to alter the grade of any street, it shall be entitled to do so without being liable to the company for any damage which it might sustain by reason of the interruption of traffic.

Hearing at Ottawa, April 11, 1905.

Judgment, July 13, 1905. Per Killam, Chief Commissioner (5 Can. Ry. Case, p. 127):

Held, that the city corporation should contribute equally with the steam railway company to the cost of the work.

Also, that the Electric Street Railway Company should likewise contribute to the cost of the work.

Ordered, that the cost of construction of the subway, including compensation for land damages, be borne by the parties in the following proportions: three-eighths by the city corporation, three-eighths by the steam railway company, one-quarter by the Electric Street Railway Company.

Leave was granted by the Board on the application of the Ottawa Electric Railway Company to appeal to the Supreme Court of Canada from its order upon the following questions of law:—

1. Whether by reason of the terms of the agreement between the Ottawa Electric Railway Company of the city of Ottawa, dated June 28, 1893, the Ottawa Electric Railway should have been ordered to contribute to the cost of the work thereby ordered to be constructed.

2. Whether the Ottawa Electric Railway Company was entitled under said agreement, to have the city of Ottawa furnish to the Otawa Elecric Railway Company, for the use of the said company in the exercise of its running powers, a street or highway known as Bank street, including that portion of the said street where it is crossed by the tracks of the Canada Atlantic Railway Company (either with the exising grade or with a changed grade as proposed), upon terms as to payment or compensation as laid down in the said agreement, and whether if such was the effect of the said agreement, the Ottawa Electric Railway Company should have been ordered to contribute to the cost of the work, thereby ordered to be constructed.

Held, that the electric company was a company 'interested or affected' in or by the said work within the meaning of section 47 of the Railway Act, 1903, and could properly be ordered to contribute to the cost thereof (37 S.C.R. 354).

No. 200.—*Re* Canadian Pacific Railway Company's branch east of the Don, Toronto.

This was an application by the Canadian Pacific Railway Company, as lessees of the Ontario and Quebec Railway Company, under section 175 of the Railway Act, 1903, for authority to construct a branch line of railway along the east side of the river Don, in the city of Toronto.

Hearing at Toronto, April 27, 1905.

Judgment, August 15, 1905, refusing application.

Killam, Chief Commissioner: It was not shown to the satisfaction of the Board that such a branch was 'necessary in the public interest, or for the purpose of giving facilities to business,' as required by subsection 4 of section 175 of the Railway Act, 1903.

The legislature had committed the interests of that part of the city, in a large measure, to the civic authorities. The Board felt that it should not interfere with the exercise of their discretion except for grave reason, and that it should be left largely to them to decide whether any, or what, railway company should be allowed to construct a branch in that neighbourhood.

It did not necessarily follow that authority would be given to any company chosen by the city, but the fact that the city agreed to the building of such a line would tend to establish its importance, and the city's choice would have great weight provided the terms appeared to the Board to properly safeguard the interests of other railway companies as well as those of the public.

No. 257.—Grand Trunk Pacific Railway Company v. Canadian Pacific Railway.

The Grand Trunk Pacific Railway applied under section 123 of the Railway Act, 1903, for an order approving the location of a section of the main line of its railway from Portage la Prairie to the Little Saskatchewan river, in Manitoba.

The route map was approved by the Minister of Railways, as required under section 122 of the Railway Act, 1903, and by the Governor in Council.

It was objected on behalf of the Canadian Pacific Railway Company that the continuation of the proposed location of the applicant company's line to the boundary between Manitoba and the province of Saskatchewan would be within a very short distance, 9 or 10 miles, of the Pheasant Hills and Manitoba and Northwestern branches of the Canadian Pacific Railway Company, which was contrary to the intent and purpose of parliament as indicated by the Act incorporating the applicant company, which required the applicant company to keep a distance of approximately 30 miles from other roads, and which involved, therefore, a very important question of law, namely, as to the true construction and interpretation of the incorporating Act, and upon which the Board might desire the opinion of the Supreme Court.

Hearing at Ottawa, September 4, 1905.

Judgment, September 4, 1905.

Chief Commissioner: It does not seem to me that there is any question of law involved in this case. The company obtained a special Act authorizing it to build a line of railway between certain points. Parliament has authorized that to be done, and it is not for this Board to say that it shall not be done.

The Railway Act, which by its terms is to be read as one with the special Act, requires the approval by the minister of the route of the railway. After the minister has approved it, the route is to be deemed the route that the railway is to follow, and it cannot be altered except by the minister himself. The Board has no arbitrary power to refuse to accept location plans which have been approved by the minister. After such approval the proper attitude for the Board to assume is to consider that there is a company empowered by parliament to construct a railway upon the route so approved. The Board has no right to say that the line shall not be built on that route. It must treat the location plans merely as plans of a part of the line according to that route located, and all it can say is as to whether the detailed location along that route shall be adopted or shall not.

There might be reasons why it should vary this a litle one way or the other and still conform to the general route the minister has authorized.

Although the Board should be very chary about questioning the minister's view, still it might not be found approving that location if it believed that the minister had taken a wrong view of the law, and that he had no power to authorize or sanction the route under the special Act of the railway company. A question of that kind is raised here. There is, to my mind, however, no doubt whatever that the Grand Trunk Pacific Company has authority to build on the route that has been chosen, and that the minister has authority to sanction that route.

The company is by its Act given power to build railways from Moncton to the Pacific coast and certain points are specified through which it has to pass. The minister would be bound by this.

The clause referred to as creating a limitation as to the route in the Northwest Territories does not bind the Governor in Council to anything as a matter of law. In the first place, it requires the location to be approved by the Governor in Council, and it says that he is to have regard to a certain principle; that he shall have regard to that principle except for the purpose of reaching common points. There is one exception. Then it says, or for other satisfactory reasons. That leaves it open to the Governor in Council to say what are the satisfactory reasons. It says further that such location shall, as far as practicable (another exception), be constructed at such distance, generally not less than thirty miles from any other main line of railway, as the Governor in Council may deem reasonable. There is no limitation, in fact, as to the thirty miles. It is a suggestion thrown out by which the Governor in Council may, to a certain extent, feel himself bound to act. The very fact that some portion of the line is picked out, and certain considerations are pointed out to guide in the approval of that particular location, would indicate that the rest of the route is left open, as it would be to any other railway company under the general Railway Act, and its special Act, when the latter has no particular limitation as to route.

Held, that there is not sufficient in the question of law raised to cause the Board to submit the question to the Supreme Court before acting in the usual way, and that the orders should issue approving the plans.

No. 25.—Application of the Grand Trunk Railway Company, under section 139 of the Railway Act, 1903, for authority to take certain additional lands lying north of the Esplanade and between Yonge and York streets, in the city of Toronto, and for the settlement of the minutes of the order therein.

On April 19, 1904, an extensive fire took place in the business portion of the city of Toronto. On May 4, 1904, before proceedings had been taken by any land-owner to rebuild, this application, which included a portion of the burnt property, was made. A further application, covering more of the burnt property, was afterwards made on August 10, 1904.

The application was in the terms of the statute, to permit the applicants to expropriate the lands burnt over and other lands . . . . . for the purpose of the 'convenient accommodation of the public and the traffic on its railway.' The result of the application was that none of the owners affected had completed any work on the ground looking towards a restoration of the buildings which had been burnt.

Two important points raised at the hearing were:—

First, as to the durisdiction of the Board. It was claimed that sufficient ground was not laid, under section 139 of the Railway Act, to enable the Board to entertain the application.

Secondly, as to the question of compensation to those interested in the land proposed to be taken.

Hearings, May 26, July 22, December 9, 1904, and January 5, 1905, at Ottawa, and December 22 and 23, 1904, at Toronto.

Judgment, February 23, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 290):

The Board may consider not merely the traffic coming to the station on the railway of the applicants immediately or from a distance, but also future traffic on the railway and the future accommodation of the public.

In dealing with the question of compensation, the Board may require the applicants to do any act whatever, including the payment of money, in addition to the compensation ordinarily allowed under the statute, but any such additional compensation should be allowed only under very peculiar circumstances.

Held, that compensation should not be paid to the owners for business losses sustained since the fire and during proceedings taken before the Board for leave to expropriate, but interest from the date of the original application for such leave was allowed.

Bernier, Deputy Chief Commissioner (dissenting): The principles upon which compensation should be allowed are fixed by the Railway Act, and the Board has no power to order payment of compensation for any other damage than that which the statute allows in the ordinary case of expropriating lands under the Railway Act.

Mills, Commissioner (dissenting): That compensation can be allowed under section 139, for business losses sustained while an application for leave to expropriate is pending, and that this was a proper case for allowing damages for such losses.

No. 183.—In *re* Grand Trunk Railway Company and cities of St. Henri and Ste. Cunegonde.

The Grand Trunk Railway Company applied for authority to expropriate, for the purpose of yard room, land owned by the cities of St. Henri and Ste. Cunegonde, in the province of Quebec.

Hearing at Otawa, February 14, and at Montreal, February 22, 1905.

Judgment, May 2, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 277):

Under sections 118 and 139 of the Railway Act, 1903, railway companies may expropriate the lands of municipal corporations used by them for municipal purposes.

No. 204.—Reid v. the Canada Atlantic Railway Company.

This was an application under section 186 of the Railway Act, 1903, by a private individual, to compel the Canada Atlantic Railway Company to make and maintain highway crossings over or under the line of railway at points adjoining lands of the applicant, and was based upon an alleged agreement between the applicant and the railway company, claimed to have been made by Mr. J. R. Booth on behalf of the railway company.

The existence and alleged terms of the agreement were disputed as well as the authority of Mr. Booth to bind the company in that respect. The railway was constructed through the lands of the applicant, and the right of way acquired from him. He afterwards laid out into town lots, with intersecting streets, laids adjoining the railway, and the application was to have certain of these streets carried across the line of railway.

The municipality had passed a by-law purporting to establish as public highways such streets without complying with section 632 of the Municipal Act, R.S.O. 1897, chapter 223.

It was objected that the applicant had no *locus standi* to be heard on such an application, which should be made by the municipality only, and that no such highway can be opened across the line of railway without the previous enactment of a by-law of the municipality to that effect, after fulfilment of these formalities.

Hearings at Ottawa, May 16 and June 6, 1905.

Judgment, June 9, 1905.

Killam, Chief Commissioner (4 Can. Ry. Cas., p. 272):

1. Under section 186, either a railway company or other parties may apply for leave to the railway company, and possibly in some cases to other parties, to construct a highway.

2. The by-law of the municipality was imperative to establish a highway across the railway against the will of the company.

3. The Surveys Act, R.S.O. 1897, ch. 181, sec. 39, cannot create highways across the land of a railway company or give any right to the applicant to have his streets extended across the railway.

4. A railway company may, with the leave of the Board, lay out and dedicate portions of its right of way for use as highways which the municipality could accept without passing a by-law for that purpose.

5. The applicant is only entitled to order from the Board authorizing the railway company to lay out and construct such highways. The by-laws of the municipality may be considered an acceptance of such highways.

6. The Board does not enforce specific performance of such agreements. It is not empowered to compel the railway company to construct the highway at the instance of the applicant.

7. As no other court or authority than the Board can legally allow the railway company or any other person to construct the highway, the application should proceed for the purpose of enabling the Board to determine whether it will give this permission.

No. 191.—Guelph and Goderich Railway Company v. Grand Trunk Railway Company.

This was an application by the Guelph and Goderich Railway Company, under section 137 of the Railway Act, 1903, for authority to take possession of, use and occupy land of the Grand Trunk Railway Company at Goderich.

The land sought to be taken was a portion of a strip along the harbour of the town of Goderich upon the waterside of which the Grand Trunk Railway Company had a number of tracks and other improvements. The particular portion applied for was not occupied by the tracks or used in any way by the Grand Trunk Railway Company, but that company claimed that it would be likely to require, in the future, for its business at that point, two additional sets of tracks upon the land in question.

The applicant company desired to take and use not only the portion absolutely required for its tracks, but also a further strip for support.

The Board's Chief engineer reported that one additional track would meet all the reasonable requirements of the Grand Trunk Railway Company for the future and that the quantity he recommended that the Guelph and Goderich Railway Company be authorized to take was the least that would be reasonably required for its tracks and their support.

Hearing at Ottawa, March 21, 1905.

Judgment, July 17, 1905.

Killam, Chief Commissioner: Railway companies have been granted by the legislature very great powers to take property without the consent of the owners. In the exercise of these powers they frequently cause serious discomfort and inconvenience to individuals, and in many cases deprive parties of property urgently needed for business purposes.

Section 137 of the Railway Act, 1903, places railway companies under liability to be subjected to similar treatment to that which, by the general expropriation clauses of the Act, they are empowered to mete out to private individuals.

Parliament desires that the way should be kept clear for the construction of additional railways, and that existing railway companies should not be allowed to monopolize the lands advantageously situated for railway purposes at any particular point.

The Board is empowered by this legislation to authorize one railway company to occupy and use the lands of another, even to the serious loss and detriment of the latter. Due compensation being made therefor care should be taken to avoid such injury, except where the public interest imperatively requires it.

It is difficult to estimate in advance the probable requirements of the distant future. On such applications endeavour should be made to allow for future development; and, if it can be avoided, encroachment upon the property likely to be reasonably required for the purposes of the existing railway should not be authorized. On the other hand, the Board must guard against the use by an existing railway company of an exaggerated estimate of its probable requirements for the purpose of placing at a disadvantage an incoming competitor.

It has not been shown that there is any need of even the one additional track for the purposes of the business of the Grand Trunk Railway Company in Goderich 'If that time should ever arrive the Board, or such body as shall then exercise its 'If that time should ever arrive the board, or such body as shall then exercise its present authority, can make such provision as may seem meet.'

Held, that order should go authorizing the Guelph and Goderich Railway Company to take possession, use and occupy the lands estimated by the engineer of the Board to be required for its purpose, such compensation therefor to be paid by that company as shall be fixed by agreement between the two companies, or, in case they cannot agree by the Board.

Held, also, that while the Board has the power to rescind or vary any of its orders, this order should expressly provide that it is subject to be varied or rescinded by the Board; thus the parties will have full notice that such change may be made as future developments shall require.

No. 249.—Preston and Berlin Street Railway Company v. Grand Trunk Railway Company.

The Preston and Berlin Street Railway Company applied, under section 137 of the Railway Act, 1903, for authority to take possession of, use and occupy so much of the lands of the Grand Trunk Railway Company's right of way at the crossing of Caroline and Erb streets, in the town of Waterloo, as is necessary for the applicant company's crossing at these points.

The Preston and Berlin Company was incorporated by letters patent under the great seal of the province of Ontario.

Hearing at Ottawa, August 29, 1905.

Killam, Chief Commissioner: Section 137 gives to a company, if the Board authorizes it, the power to take and use the land of a railway company. The words 'the company,' referred to in that section means a railway company within the legislative authority of the Parliament of Canada.

The Board has no jurisdiction to authorize the taking of the lands applied for.

No. 318.—Bertram & Sons' application—branch line.

This was an application by John Bertram & Sons, Ltd., of Dundas, Ontario, for an order directing the Hamilton and Dundas Street Railway Company and the Toronto, Hamilton and Buffalo Railway Company, or one of them, to construct and maintain a branch line from the railway of the Hamilton and Dundas Street Railway Company from Hatt street, in the town of Dundas, to the lands and premises of the applicants.

The Hamilton and Dundas Street Railway Company was incorporated by Act of the legislature of the province of Ontario, and its railway was never declared by the parliament of Canada a work for the general advantage of Canada.

The contention on behalf of the applicants was that section 7 of the Railway Act, 1903, gave the Board jurisdiction.

This section provides that 'every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a special Act passed by the legislature of the province, now or hereafter connecting with or crossing a railway which, at the time of such connecting or crossing, is subject to the legislative authority of the parliament of Canada, is hereby declared to be a work for the general advantage of Canada in respect only to such connection or crossing, or to through traffic thereon . . . . .'

The Toronto, Hamilton and Buffalo Railway Company is subject to the legislative authority of the parliament of Canada.

Hearing at Toronto, December 11, 1905.

Judgment, December 11, 1905.

Killam, Chief Commissioner: These provincial railways are declared to be works for the general advantage of Canada in respect only of the making of the physical connection, the crossing of one by the other, and the through traffic between them. That does not include the making of sidings or the giving of facilities for traffic.

Its purpose is to make those railways authorized by the provincial legislatures subject to the Dominion Railways Act in respect of certain matters only, and not to make the whole of these railways, after they have once been connected, and become in one sense a connection of a Dominion railway, wholly subject to the Act for all purposes.

Held, that the Hamilton and Dundas Street Railway Company was not within the Board's jurisdiction and that the Board has no power to make an order directing it to give a siding.

No. 264. The Canadian Pacific Railway Company v. the township of North Dumfries.

Application by the Canadian Pacific Railway Company for authority to construct and operate railway tracks for a term of years over the present line of a highway in the township of North Dumfries, Ontario, to close to public traffic a portion of such highway, and to open in lieu thereof a new road.

The company had a spur track running from its main line at Ayr to a mill, and from this spur line sidings were run into a ballast pit, crossing in their course the highway in question.

Arrangements had been made with the owners of lands adjoining the gravel pit on one side of the highway and adjoining the company's mill spur on the other side of the highway, for the acquisition of further lands containing gravel; and the company desired to excavate farther back into the side of the hill to a depth much below the level of the highway, and for that purpose to cut away the soil of the highway a similar depth, and also for a period of fifteen years to divert the highway so that it would run around the company's land and be crossed on one side by the spur leading from the station at Ayr to the mill and gravel pit.

It was objected that the Railway Act did not authorize the diversion of a highway except for the purpose of its being crossed by or carried opposite the main line of the railway.

Hearing at Galt, November 6, 1905.

Judgment.

Killam, Chief Commissioner: Gravel is necessary for properly ballasting a line of railway and keeping it in a proper state of efficiency. The ordinary method of obtaining such gravel for use on a line of railway is to construct spurs or sidings to points where the gravel is to be obtained, and to carry it therefrom by railway locomotives and cars to the line on which it is to be used.

Section 141 shows that the acquisition of lands on which gravel is to be found, and the construction thereto of our spur lines, are within the powers intended by parliament to be exercised by a railway company.

Where the railway company can acquire the lands containing the gravel, and have a right of way thereto, it is not necessary to take the steps prescribed by section 141. For the purposes of such spur line, the railway company can exercise the powers for the diversion of highways given by the Act, as well as for the purpose of the construction and operation of the main line of railway.

In order to the proper excavation of the gravel pit to the depth to which the gravel goes, and for the proper operation of gravel trains, the railway company requires to cut through the highway more than once. A single cutting across the highway of the ordinary width for one track, would be insufficient. In order to keep the highway on its present site in a fit state for travel a long bridge or series of bridges would be necessary.

The railway company, in lieu thereof can properly be authorized to divert the highway at this point for the period of time estimated by it to be necessary for the purpose of exhausting the gravel pit.

By the municipal law of Ontario, the municipality in which the highway is situated is entitled to dispose of gravel in the soil of a public highway, and to maintain trespass against any person taking the same. The railway company does not desire to deprive the municipality of the gravel in the soil of the highway, and is willing to restore the site of the highway to a satisfactory condition for public travel at the conclusion of its operations.

Section 2, subsections (s) and (bb), 118, 119, 141 and 186 of the Railway Act, 1903, referred to.

Held, that the diversion should be allowed upon proper terms for safeguarding the interests of the municipality and of the public.

No. 263*b*.—T. D. Robinson & Son v. The Canadian Northern Railway Company.

This was an application by T. D. Robinson & Son, of the city of Winnipeg, for an order directing the Canadian Northern Railway Company to replace the siding wrongfully taken up by it from the applicant's property immediately adjoining the station and main line and yards of the said railway company, in the said city of Winnipeg, or any such other part of the applicant's yard as to the Board may seem just; or, in the alternative, that general delivery of all freights consigned to the applicants be made to the siding at present erected close to the applicants' yards, and for such other relief as to the Board may seem just.

The applicants were owners of lands immediately adjoining the main line passenger station and the yards of the railway company in the city of Winnipeg, and formerly had a private siding extending from a point of their land into the station yards of the company and connecting with the railway. The siding was constructed and owned by the railway company, who had, however, acquired no title to any part of the land of the applicants on which the said siding was placed.

The railway company later took up the siding, alleging, as a reason, that it was inconvenient for them to continue the use of it to the applicants, and as a result this application was made to the Board.

It was objected, on behalf of the railway company, that the Board had no jurisdiction to make an order as applied for; that the only section of the Railway Act empowering the Board to order the construction of spur lines is 176, and unless the parties should consent to an order made with any other provisions, the Board would be limited to making this order strictly in accordance with the provisions of that section.

Hearing at Winnipeg, September 11, 1905.

Judgment, January 6, 1906.

Killam, Chief Commissioner: In taking from the applicants the siding and railroad connection formerly enjoyed by them, the railway company deprived the applicants of reasonable facilities which the company should be directed to restore.

The applicants did not apply under section 176 of the Railway Act as owners of an industry for an order to compel the company to construct a branch or spur line. Their lands adjoins the railway yard of the company, and no order was necessary to enable the railway company to construct a line upon its own land to the boundary line between its property and that of the applicants, or to make connection at such boundary line with a siding upon the applicants' land and transfer cars to and from such siding.

The siding and connection, and the privilege of loading cars and delivering goods for carriage on such a siding and of receiving and unloading goods by means thereof, may properly be required as facilities within the Act.

While the Board does not hold that the railway company should be made to furnish similar facilities to every applicant, in view of the previous supply of the same

to the applicants and of the company's practice in freely furnishing such accommodation to those engaged in the same and other branches of business, as well as the other facts and circumstances disclosed, these facilities should be regarded as reasonable and proper ones which the company should afford to the applicants.

Under all the circumstances, the discontinuance of the former service was unreasonable. Railway companies should not be allowed to furnish and cut off such facilities capriciously.

An order directing the railway company, in the general terms of section 253, to afford to the applicants all reasonable and proper facilities for the receiving, &c., would not be sufficient. The authorities cited by counsel for the company were not, in the opinion of the Board, conclusive against its judisdiction to direct specifically the continuance of previous facilities which had been unreasonably disontinued.

Held, that an order should go directing the railway company to restore the spur trak facilities formerly enjoyed by the applicants for the carriage, despatch and receipt of freight in carloads over, to, and from the line of the railway company and the connection for that purpose, between such spur track and a railway siding on the land of the applicants; the company to have the option of constructing the siding on the applicants' land, at the expense of the applicants, or of allowing this to be done by the applicants, who shall bear the expense of making the necessary connection. The company should also have the option of constructing the track from such point on its line, and to such point on the applicants' land, as it shall think proper.

Order issued February 19, 1906.

NOTE.—The railway company appealed to the Supreme Court of Canada from the order of the Board, dated the 19th day of February, 1906, on the question of the Board's jurisdiction to make the order. Appeal dismissed.

No. 263*a*.—Winnipeg Builders' Exchange.

This was an application by the Winnipeg Builders' Exchange for an order directing the Canadian Pacific Railway Company, the Canadian Northern Railway Company, and the Manitoba Railway Company to interchange freight of all grades and classes at the city of Winnipeg.

Hearing at Winnipeg, September 11, 1905.

Killam, Chief Commissioner: Railway companies are not entitled, under sections 214 and 253 of the Railway Act, 1903, to distinguish between different kinds of traffic by refusing to certain commodities the facilities for interchange which are given in respect of other commodities, but in view of the congested state of traffic on railways in Manitoba at that time, the Board did not think it proper to direct that any change be made immediately in the practice theretofore followed in that respect.

Held, that an order should issue directing that on and after the 1st day of January, 1906, all freight in carloads shall, when carried over the railway of the Canadian Pacific Railway Company or the Canadian Northern Railway Company to the city of Winnipeg, or the town of St. Boniface, or delivered to such other company at Winnipeg or St. Boniface for carriage, be transferred by the one company to the other in the original car at some point of junction of their lines in the vicinity of St. Boniface or Winnipeg, when so consigned.

In view of the condition of the line along the west side of the Red river, commonly known as the 'transfer track,' and the total insufficiency of that line for the interchange of such traffic, the railway companies were left to make the interchange at such points as circumstances appeared to them to warrant.

No. 212.—The Canadian Pacific Railway Company v. The Grand Trunk Railway Company.

This was an application by the Canadian Pacific Railway Company for an order directing the Grand Trunk Railway Company to afford proper facilities for the interchange of traffic between the said companies over the branch authorized by order of

the 6th of July, 1904, to be constructed by the Grand Trunk Railway Company from a point on its line between London and St. Mary's to the line of the Canadian Pacific Railway Company, between London and Toronto, and fixing the amount to be charged for such interchange of traffic and the interswitching of cars over the said branch.

The only connection at or near London, between the lines of the two railways, is by this branch.

The Grand Trunk Railway Company's lines in and through the city of London were in existence long before the Canadian Pacific Railway was constructed. It had extensive terminal properties, including a large number of sidings to various business and manufacturing premises and an extensive business at that point. The terminal facilities and business of the Canadian Pacific Railway Company at London, on the other hand, were comparatively small.

By means of this branch the Canadian Pacific Railway Company was given direct access to a large number of business premises in London, which it did not previously have.

Urged on behalf of the Grand Trunk Railway Company, that as the proposed connection would be much more advantageous to the Canadian Pacific Railway Company than to it, the Grand Trunk Company should receive much the larger proportion in the division of rates for traffic interchanged between the two companies—much greater than that which would be a fair remuneration for the mere service rendered in the transportation of cars over this branch and its London terminal lines and the loading and unloading of the same.

Secs. 253, 266, 267 and 271 of the Railway Act, 1903, referred to.

Hearing at Ottawa, June 20, 1905.

Judgment, July 16, 1905.

Killam, Chief Commissioner: The provisions of the Railway Act which require railway companies thus to interchange traffic at connecting points are introduced, not for the purpose of benefiting one railway company at the expense of another, but solely in the interests of the public. The law cannot recognize anything in the nature of a good-will of the business of either railway company thus affected, for which another should give compensation. The division between railway companies of the joint rates for traffic thus interchanged should be made upon the principle of giving reasonable compensation for the services and facilities furnished by the respective companies in respect of the particular traffic interchanged, and not by reference to the magnitude of the business of the company, or the other particular points, or the respective advantages which each can offer to the other there, or a comparison of the loss which the one is likely to sustain with the gain likely to accrue to the other from the giving of the facilities which the law requires.

The Board cannot properly deal with the question of the division of such rates or the allowance of charges for switching in a general way, and by reference to all the points in Canada where the railways may connect. In each case the nature and value of the service to be rendered and the facilities to be used must be taken into consideration.

The Grand Trunk Railway Company being obliged to furnish, for the carriage over its portion of the continuous line, for the receipt and delivery of the same, and for the loading and unloading of cars for the purpose, the same facilities as in respect of traffic passing over its own lines only or transferred to or by it at distant points of the Canadian Pacific Railway system, the apportionment of rates should be made upon this basis.

Held, that order should go requiring the Grand TrunkRailway Company to afford all reasonable and proper facilities for receiving, forwarding and delivering all traffic offered to it in cars wholly or partially loaded for passage over the branch in question and its lines connected therewith and of unloaded cars so offered and of freight offered to it for carriage to and over the lines of the Canadian Pacific Railway by the

medium of the said branch, and for the interchange by means of the said branch of traffic between its lines and those of the Canadian Pacific Railway Company, as well as between the lines of the Canadian Pacific Railway Company and those of other railway companies connecting with the lines of the Grand Trunk Railway Company, and providing that the rates to be charged for such traffic shall be those provided for by any joint tariffs in existence between the railway companies interested, and, in the event of there being none, the rates charged by the Grand Trunk Railway Company between the same points, and, in the absence of either the rates charged by the Canadian Pacific Railway Company between the same points; also, that in the division of rates for such traffic, the Grand Trunk Railway Company shall be entitled to charge and receive the following tolls for switching freight and live stock traffic, in carloads, from and to the Canadian Pacific Railway at or near London by means of the said branch, namely:

(*a*) Between the point of connection of the Grand Trunk Railway interchange track and the Canadian Pacific Railway siding, and all delivery tracks and siding owned or controlled by, or connecting with, the lines of the Grand Trunk Railway between and including the Canadian Packing Company's plant on the east and the London Street Railway interchange, known as Springbank siding, on the west, except as provided in clause (*b*), one cent per one hundred pounds, but not less than five dollars per carload, for each complete haul in either direction; no extra charge to be made for the movement of the empty car in the opposite direction.

(*b*) For the intermediate switching of through or joint freight and live stock traffic between the point of connection designated in clause (*a*) and the point of connection of the Grand Trunk Railway with the Père Marquette railroad, three dollars per car, in either direction, regardless of the weight; no extra charge to be made for the transfer of the returning empty car.

Held, further, that the order should also provide that all devices, such as free or assisted cartage or cartage allowances intended to equalize the facilities of the respective railways of the Canadian Pacific Railway Company and the Grand Trunk Railway Company for the collection and delivery of freight at or near London, except the customary system of cartage published in the freight tariffs of the respective companies be prohibited and that all preference, prejudice and discrimination in such cartage system be prohibited.

Order dated July 25, 1905, issued.

NOTE.—An appeal to the Supreme Court of Canada from the Bard's order or July 25, 1905, now pending.

Walker et al v. *The Toronto and Niagara Power Company.*

Two applications were made to the board, one by John H. Walker and William Tuck, the other by James W. Alway, for an order rescinding an order of the board authorizing a deviation from the located power line of the Toronto and Niagara Power Company, previously approved by the board.

By order dated March 29, 1904, the board approved the location of the line of the Toronto and Niagara Power Company from 3 to 38 miles from the Niagara river. This included the line across lots 7, 18 and 19, in the 3rd concession of the township of Grimsby. Each of the three applicants is the owner of one of these lots.

On April 15, 1905, the board authorized a deviation from the located line, as approved. This was the order sought to be rescinded. The new plans showed a different location, beginning at lot 15, in the 3rd concession of Grimsby, and extending across (among other lands) lots 17, 18 and 19, at an approximate distance on these three lots three-quarters of a mile from the previous location across them.

The applications to rescind the order of April 15, 1905, were based on the grounds that the Railway Act did not permit a double expropriation, and that the company was in reality not deviating from the original line sanctioned by the board, but was constructing an additional or branch line in connection with its original line.

Hearing at Toronto, November 7, 1905.

Judgment, April 12, 1906.

Killam, Chief oCmmissioner (5 Can. Ry. Cas., 190): Held (1) that the company's powers under its Act of incorporation (2 Edw. VII., Ch. 107, Dom.) were not exceeded by the construction of one line, as in the case of a company authorized to build between two termini or any specified number of lines.

(2) That the cases relating to deviations by railway companies do not apply.

(3) Without considering the jurisdiction of the board to make the orders respecting location plans, the applications must be refused.

The Algoma Central and Hudson Bay Railway Company v. *Grand Trunk Railway Company.*

This was an application by the Algoma Central and Hudson Bay Railway Company for an order, under sections 266 and 267 of the Railway Act, 1903, to compel the Grand Trunk Railway Company to enter into a joint tariff with it upon traffic partly over the Grand Trunk Railway and partly by a line of steamships of the applicant company.

The Algoma Central and Hudson Bay Railway Company operates a line of railway from Sault Ste. Marie northwesterly for about 70 miles, and also a line of railway from Michipicoten harbour, on Lake Superior, for a short distance. It uses and operates a fleet of steamers, passenger and freight, plying between Sault Ste. Marie and Michipicoten harbour, on the one hand, and points on Lake Huron and other inland waters reached by the Grand Trunk Railway on the other.

Section 276 of the Railway Act, as making the provisions of sections 266 and 267 extend to the traffic mentioned, relied upon.

Hearing at Toronto, April 17, 1906.

Judgment, April 26, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 196): Sections 253 and 271 relate solely to railway traffic, and not a traffic between a line of railway and water line.

A line of steamships operated by a railway company running to ports reached by the line or lines of another company does ont constitute therewith a continuous route within the meaning of sections 266 and 267 of the Railway Act, 1903.

Applications dismissed.

The City and County of St. John v. *The Canadian Pacific Railway Company.*

Application by the municipality of the City and County of St. John, New Brunswick, for an order under section 187 of the Railway Act, 1903, directing the Canadian Pacific Railway Company to construct and maintain suitable gates over a street in the village of Fairville, and one in the village of Milford, where the Canadian Pacific Railway crosses these streets.

Hearings at St. John, April 18, and Ottawa, November 22, 1905.

Judgment, June 5, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 161): The railway company was ordered to construct and maintain gates over the street crossing in Fairville and to install an electric bell at the crossing in Milford.

Held, that the board had jurisdiction, under section 47 of the Railway Act, 1903, to order the municipality to contribute to the expense of protecting its highway crossings, as in the case of municipalities in other provinces. City of Toronto *v.* Grand Trunk Railway Company, 37 S.C.R. 232, referred to.

By later order of the board, dated June 14, 1906, the cost of installing, operating, and maintaining the gates of the Fairville street crossing was directed to be borne by the railway company, the wages of the day and night watchman employed at this crossing to be paid one-half by the municipality and one-half by the railway company; the cost of installing, operating and maintaining an electric bell at the Milford crossing to be borne by the railway company.

Re Apportionment of Cost for Protection of Highway Crossings.

Judgment of Chief Commissioner in the Almonte street crossings' application (June 15, 1906) '. . . . . the usual practice of the Railway Committee of the Privy Council, which, before the constitution of the Board of Railway Commissioners, exercised jurisdiction respecting the protection of highway crossings, was to divide the cost of the protection of previously existing highway crossings by railways between the municipalities and the railway companies; that such has been the practice of this board, although it is recognized that no fixed rule can be laid down for determining whether the municipality should share the expense, or in what proportion it should do so. In a recent case, the jurisdiction of the Railway Committee to apportion such expense upon the municipality was upheld by the Supreme Court of Canada.

Niagara, St. Catharines and Toronto Railway—Thorold Street Crossings.

This was an application by the Niagara, St. Catharines and Toronto Railway Company, under section 186 of the Railway Act, 1903, for leave to cross certain streets in the town of Thorold, in the township of Thorold, with its line of railway.

Hearing at Hamilton, May 8, 1906.

The town of Thorold opposed the application, contending that the applicant company's railway is a street railway or tramway, or is operated or to be operated as a

street railway or tramway, and that leave could not be given to carry it across streets in the town without the consent of the town by by-law. Upon the evidence, it did not appear that the proposed branch line was a street railway or tramway, or intended to be operated as such. The applicant company's main line was constructed upon the company's right of way and did not run along the streets in Thorold, nor did its cars stop at street corners to take up or let off passengers, but only at its own stations.

In the year 1902, by authority of the parliament of Canada and of the legislature of the province of Ontario, the applicant company acquired the property and undertaking of the Port Dalhousie, St. Catharines and Thorold Electric Street Railway Company, Limited, a company incorporated under the authority of the legislature of the province of Ontario, for the construction and operation of an electric street railway, and the applicant company now operates the line of that street railway in and upon the streets of Thorold and elsewhere; but the branch line authorized by order of the board, and which the applicant company desired to carry across these streets, was to be taken from the main line of the applicant company's railway, and not from the street railway system.

Judgment, Chief Commissioner, June 19, 1906.

The prohibition in section 184 of the Railway Act, 1903, is against the authorization of the operation of a street railway or tramway along a highway. In the present case the application is for crossings only. In one case, the crossing is to be at an angle which would force the railway upon the street for a considerable distance, but it seems to be none the less a crossing. The evident intention of the Act is to require railway companies proposing to operate a street railway system, and to use the streets as their right of way, to procure the assent of the municipality for that purpose. The Act authorizes a company to carry its railway across streets by leave of the board, and the only qualification is that the consent of the municipality is required where the railway is a street railway or tramway which runs along, and not merely across, the street.

Held, that the application should be granted.

Re *The MacGregor-Gourlay Co., Limited, Complaint.*

This was a complaint by the MacGregor-Gourlay Co., Ltd., respecting the obstruction of South Water street, in the town of Galt, alleging that the Grand Valley Railway Company had raised its tracks from ten inches to two feet above the level of the street, in contravention of an agreement between the town and the railway company, entered into September 13, 1905.

Under this agreement, the company was required, amongst other things, to—

(*a*) macadamize 22 feet in width of the roadway where practicable—such work to be done in a manner satisfactory to the board of works, who were to have the power to direct what portion of the roadway of 36 feet in width should form the 22 feet to be macadamized;

(*b*) lay and maintain the top of the surface of the ties so as to be flush with the adjoining surface of the street; but where the track should be laid in or about the centre of the street, it was required to lay and maintain its rails so that the top thereof should be flush with the adjoining surface of the street.

The agreement also provided that any disputes were to be determined by the board of works of the town. The board caused its engineer to make an inspection of the line of the Grand Valley Railway Company along South Water street, and he reported that 'from the end of the bridge across the Grand river to the south end of the property owned by the Beers Tannery, the track along Water street is from 4 inches to 12 inches above the level of the street, so that access to the property on the west side of the street is cut off. . . . .'

The engineer expressed the opinion that the company should put its tracks down to the level of the street, so that the owners of the property on the west side of the street might have unobstructed access to their property.

Under direction, the company was asked to advise the board whether it had since complied with the terms of the agreement between it and the town, and the clerk of the town notified that this had been done, with the additional notification that, under sections 186 and 187 of the Railway Act, 1903, the board has jurisdiction to direct that such works be executed or measures taken as appear to the board best adapted to remove or diminish the danger or obstruction arising or likely to arise from the railway company's tracks; and that the board is not bound in this respect by the decision of the board of works; but may, if the civic authorities allow the railway and the street to remain in such a condition as unduly to obstruct traffic, direct the town, instead of the railway company, to take the necessary measures for protection of the public.

June 25, 1906.

In re Cockerline and Guelph and Goderich Railway Company.

Robert J. Cockerline applied to the board for an order directing the Guelph and Goderich Railway Company to make him an undercrossing between the parts of his farm severed by the railway line. The facts are specifically set forth in judgment of the Chief Commissioner below.

Hearing at Stratford, May 28, 1907.

Judgment, June 26, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., pp. 3, 4 *et seq.*): The board made an order upon the advice of its engineer, directing the Guelph and Goderich Railway Company to provide for R. J. Cockerline three farm crossings over its line through his farm, two level crossings and one undercrossing. The railway company has applied to have this order set aside on the ground that the board has no jurisdiction to require it to make a farm crossing under its railway.

Section 198 of the Railway Act, 1903, requires that,

'Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes. In crossing with live stock, the same shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents.'

In the case of Armstrong v. James Bay Railway Company, 7 O.W.R. 75, 12 O.L.R. 137, Sir Wm. Meredith, C.J., expressed the opinion that the first subsection of section 198 did not apply to a passageway under the railway track; he referred particularly to the provision requiring live stock, when crossing, to be in charge of a competent person, as indicating this view.

In this connection, it seems well to refer to section 191 of the Railway Act of 1888, by which

'Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway by farmers' implements, carts and other vehicles.'

That required crossings to be made 'convenient and proper' for the purposes specified.

In Reist v. Grand Trunk Railway Company, 6 U.C.C.P. 421, Draper, C.J., expressed the opinion that, under 14 and 15 Vict., ch. 51, sec. 13, requiring a company 'to erect and maintain' (among other things) 'farm crossings for the use of proprietors of lands adjoining the railway,' the expression 'farm crossing' might include 'a passage across and upon the railway itself—a crossing at grade, or a bridge over, or a tunnel under the railway,' adding, 'I observe nothing in the Act which necessarily excludes either of these interpretations.'

The language of the first subsection of section 198 is much changed. The crossings are requqired to be 'convenient and proper for the crossing of the railway for farm purposes.' In Armstrong v. James Bay Railway Company, 7 O.W.R. 715, 12

O.L.R. 137, the learned Chief Justice indicated a doubt as to the power of the Board, under the second subsection of section 198, to require a company to provide an undercrossing.

Apart from the reference to live stock, in the first subsection, I should feel no difficulty in agreeing with the view taken by Draper, C.J., in Reist v. Grand Trunk Railway, and in applying that to the construction of section 191 of the Act of 1888.

In construing section 198 of the present Act, we should, I think, start from the position that the previous law required undercrossings, if other convenient and proper ones could not be obtained. Subsection 2 is wide enough in its terms to include undercrossings. It gives the Board power to order a company to provide a suitable farm crossing, and to order and direct how, when and where it shall be constructed.

The principal argument against that view is that the word 'across' means 'over,' or 'on the surface of.' In Webster's dictionary the word is defined as meaning 'from side to side,' 'athwart,' crosswise,' 'quite over.' The latter expression certainly does indicate something above, but the other equivalents do not. Usually, resort must be had to the context. We may go across a river upon a bridge, by boat, by swimming, or by a tunnel underneath the water. A net or a rope may be properly said to be stretched across a river although underneath the water. The word 'across' is equally applicable in any case.

In section 184 of the Railway Act, 1903, authority is given to carry a railway 'upon, along or across' a highway.

By section 186 authority is given, on any application for leave to construct the railway 'upon, along or across' a highway, to order it to be carried over or under the highway. The section makes it clear that in crossing, the highway may be placed under the railway, or the railway under the highway; but the undercrossing and the overcrossing equally are included under the expression 'across.'

Section 197 of the Act speaks of drainage or drainage works 'upon and across the property of the landowners,' and 'upon and across the railway and lands of the company.' Having reference to the subject, drains underneath the property or railway would naturally be considered as included, and this is obvious by the latter part of the section providing that 'no drainage works shall be constructed or reconstructed upon, along, under or across the railway or lands of the company,' &c.

In the present case, the railway is carried across Mr. Cockerline's farm upon a high embankment constructed for the purpose, any crossing over which would be inconvenient. I do not think that the so-called level crossings alone would be considered to be 'suitable.'

Some attempt was made, upon the hearing of the application, to show that Cockerline, in conveying the right of way to the railway company and agreeing upon a price therefor, intended to release the right to a farm crossing, or farm crossings. and to accept compensation for their loss.

To my mind, the evidence establishes directly the contrary, and that Cockerline acted under assurances calculated to lead him to believe, and which did lead him to believe, that his application to the Board for an undercrossing would not be prejudiced by the execution of the conveyance and acceptance of the purchase money.

Under all the circumstances, it appears to me that the order should be affirmed, with costs to be fixed by the secretary of the board.

Re *Complaint of Staunton's, Limited, Toronto.*

This was a complaint by Staunton's, Limited, of Toronto, against the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, alleging that the freight rates charged by these companies on wall paper shipped from Toronto to points in eastern Ontario and in the provinces of Quebec, New Brunswick and Nova Scotia, were excessive and discriminatory in comparison with the rates in

effect upon similar merchandise carried in the opposite direction; and complainants applied for an order disallowing the present east-bound rates on their goods and restoring those in effect prior to November 15, 1905.

Hearing at Toronto, May 9, 1906.

Judgment, Chief Commissioner, June 28, 1906.

The Board considers that the long continued existence of the former tolls affords strong evidence of their reasonableness, and that it does not appear that there has been any change of circumstances, or that there is any sufficient reason for the changes recently made in those tolls; that the charging of higher tolls for the traffic in question from Toronto eastward than are charged for similar traffic from Montreal and other points westward constitutes an unjust discrimination against the Toronto shippers, and that these tolls should be equalized.

Order of Board, July 31, directing that the said companies reduce their tolls for the said east-bound traffic from Toronto to Montreal to those in the tariffs for similar west-bound traffic between the same points; that the tolls to Montreal be not exceeded to Ottawa, nor to intermediate points; and that the tolls to points east of Montreal be reduced by the amount of the said reduction to Montreal. Also that the tariffs to be made under the order come into force not later than September 10, next.

P. C. Patriarche and Burlington Canning Co. v. *The Grand Trunk Railway Co. and The Hamilton Radial Electric Street Railway Co.*

This was an application, under sections 253 and 271 of the Railway Act, 1903, to compel an interchange of traffic between the two railways.

The Hamilton Radial Electric Street Railway Company was incorporated by Act of the legislature of the province of Ontario. Its undertaking and railway have never been declared by the parliament of Canada to be a work for the general advantage of Canada, or for the advantage of two or more of the provinces.

The Grand Trunk Railway was, by the Railway Act of 1888, declared a work for the general advantage of Canada, and subject to the legislative authority of the parliament of Canada.

The Act of 1888 was repealed upon the coming into force of the Railway Act, 1903.

By section 7 of the latter Act,

'Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a special Act passed by the legislature of any province, now or hereinafter connecting with or crossing a railway which, at the time of such connection or crossing, is subject to the legislative authority of the parliament of Canada, is hereby declared to be a work for the general advantages of Canada in respect only to such connection or crossing or to through traffic thereon or anything appertaining thereto, and also to the provisions set forth in this Act relating to offences and penalties, navigable waters and criminal matters, and this Act shall apply to that extent only.'

Some years before the coming into force of the Railway Act, 1903, a physical connection was made between the two railways, but no order was obtained authorizing such connection either under section 173 of the Railway Act, 1888, or section 177 of the Railway Act, 1903, although a crossing had been authorized by the Railway Committee of the Privy Council in 1897.

Hearing at Hamilton, May 9, 1906.

Judgment, June 28, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 200): Held, that parliament has the incidental power to determine the terms upon which a railway, not otherwise subject to its legislative authority, may connect with or cross one that is so subject, and the obligations between the companies concerned.

British North America Act, section 91 (10) and (*c*), and section 92 (29), sections 306 and 307, Railway Act, 1888, and section 7, Railway Act, 1903, referred to.

Held, that such connection being illegal, no order should be made. An application to authorize the connection, under section 177 of the Railway Act, 1903, must first be made.

The Guelph and Goderich Railway Co. v. *The Guelph Radial Railway Co.*

The Guelph and Goderich Railway Company applied under section 177 of the Railway Act, 1903, for leave to construct and operate its railway across the railway of the Guelph Radial Railway Company on the Elora road. outside the limits of the city of Guelph.

The Guelph and Goderich Railway Company was incorporated by an Act of the parliament of Canada, 4 Edward VII., chapter 81, assented to June 6, 1904. A plan showing the location of its line across the Elora road, outside the city of Guelph, was approved by the Board on July 2, 1904, filed in the Registry Office on July 8, 1904, and notice of the proposed location published in local newspapers in August, 1904.

This application was filed on August 16, 1905, and an order was made giving leave to the Guelph and Goderich Railway Company to cross the highway at that point, on October 16, 1905.

On the 25th May, 1905, by 5 Edward VII., chapter 91, the Guelph Radial Railway Company was empowered to build and operate an extension of its railway on the Elora road, outside the city of Guelph. Its location had been authorized by a by-law passed by the council of the county of Wellington on June 4, 1904.

Hearing at Stratford, December 4, 1905.

Judgment, July 5, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas. 180): Held, that the location and operation of the Radial Railway Company had, under the circumstances, become authorized on May 25, 1905, and was prior to that of the applicant company, and that, following the usual course, the applicant company must be at the expense of the crossing and maintenance of any necessary protection.

Ruling re *Erroneous Rate Quotations.*

Chief Commissioner, July 31, 1906:—

The Board is appointed to enforce the Railway Act—not ordinary contracts. In my opinion, the Board should recognize as valid only the tolls set out in the tariffs authorized by the Act, and it should not assume to interfere with charges made in accordance with such tariffs on the plea that lower rates were quoted by a company's agent. Such a practice would open the door to rebates and preferences.

If parties have any right to relief in such cases, they should seek it in the ordinary courts on the ground of breach of special contract or of misrepresentation.

The Act giving the Board durisdiction respecting rates of express companies does not apply to past transactions, and the functions of the Board will be confined to the approval of tariffs for the future and dealings with tolls under them.

Chief Commissioner, September 19, 1906.

Re *Grand Trunk Pacific Right of Way at Clover Bar, Alberta.*

Complaint was made to the Board respecting the methods adopted by agents of the Grand Trunk Pacific Company for the acquisition of lands for the company's right of way.

Held, Chief Commissioner, October 9, 1906, that the subject-matter of the petition is one over which the Board has no durisdiction; that, under the Railway Act, 1903, upon approval of its location plans, a railway company is entitled to acquire its right

of way either by voluntary conveyance from the owners of the necessary lands or by expropriation proceedings. The Act gives to the Board of Railway Commissioners no authority respecting either method of acquisition of these lands. If parties are induced by unlawful misrepresentation or duress to part with their lands on unfavourable terms, they must seek their redress in the ordinary tribunals. The proceedings for expropriation are set out in the statute, and the Board is given no authority over either the procedure or the amount of the compensation.

Re *Postal Cars.*

Judgment, Chief Commissioner, October 10, 1906:

I am not at all clear that the Board has jurisdiction to compel railway companies to alter their ordinary practice in regard to the respective locations of mail and baggage cars. Possibly the jurisdiction may exist under section 212, subsection 2, of the Railway Act, 1903; but, even if there is such jurisdiction, I do not think that the board should interfere with the discretion of railway officials upon this point.

It is not easy to determine whether there is materially greater danger to parties in the first than there is to those in the second car.

Even if greater consideration should be given to those who are not employees of the railway company, there does not appear to be any reason for giving preference to mail clerks over the employees of express companies.

In re *Highway Crossings.*

Statement of facts taken from judgment of Chief Commissioner:

During the official trip of the Board in western Canada in the summer of 1906, a number of applications were brought before it in respect of street crossings over railways in the province of Alberta. One of these related to a large number of crossings in the city of Calgary over the line of the Canadian Pacific Railway Company. This was settled by agreement between the city and the railway company, and an order, in conformity with the agreement, was issued later.

Another was an application by the town of High River for an order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing where its railway intersected Fourth street in that town. The application alleged that there was no railway crossing between the Calgary and Macleod trail and Seventh street, according to a plan which showed Fourth street as lying in the intermediate space, and that the opening of Fourth street was necessary for the proper enjoyment of the use of the streets of the town and for the safety of the inhabitants.

A third was the application of the town of Olds for leave to construct certain highways across the railway of the Canadian Pacific Railway Company's Calgary and Edmonton branch at Olds, to join and connect certain main streets lying on each side of the railway.

While this application alleged the previous existence of certain crossings upon the lines of certain main streets, known as Second and Third streets, it further alleged that the only legal crossing which the town had at the time of the application was at the extreme north end of the town, which was north of either of the streets named.

A fourth was that of the town of Didsbury, for an order, 'under the provisions of the Railway Act, 1903, respecting highway crossings, being sections 184 to 191, inclusive, and particularly under section 187, directing the Canadian Pacific Railway Company to construct and provide a suitable crossing, and to maintain the same perpetually where the continuation of Hespeler street, in the said town of Didsbury, if continued easterly, without the obstruction being placed thereon by the Canadian Pacific Railway Company, would cross the said railway company's right of way.'

The application alleged that Hespeler street in Didsbury, 'for some years past, and until it was obstructed by the said the Canadian Pacific Railway Company on or about the 1st day of August, 1906, was a highway, and was used as such by the public.' It further alleged an express agreement between the railway company and the town for making Hespeler street a perpetual highway across the railway, and that the town had, at the request of the railway company, improved Hespeler street upon the company's right of way, and had expended a considerable sum of money in doing so; that the railway company had placed a large quantity of earth upon Hespeler street where it crossed the company's right of way, and that the town had used and employed this earth in further grading and improving the street at the request of the railway company; and that the railway company had indicated by a sign that there was a highway crossing over the railway at that point; and setting forth other circumstances as showing the importance, in the public interest, of having a highway crossing at Hespeler street.

The application further alleged that the railway company had recently obstructed the crossing at Hespeler street and deprived the public of the use and enjoyment thereof.

A fifth application was made by the village of Leduc for a street crossing over the Calgary and Edmonton branch of the Canadian Pacific Railway Compny at Mill street. In answer to this application, the Canadian Pacific Railway Company submitted a plan of the town site and existing crossings at Leduc, pointing out that 'from the plan it will be seen that there is already a crossing at the point known as "Edmonton Trail," another nearly opposite Main street, and a third about 1,600 feet south of the latter.'

Upon examination of the locality by an engineer of the Board, he reported that he had inspected the site of the proposed crossing in company with the overseer and principal business men of the village, and that 'the overseer and the others agreed that, if the village has to build and maintain the crossing, it would be just as well for them to build a road along the east side of the railway from Mill street north to Main street, and cross there where there is already a crossing.

Subsequently, the village presented to the Board a formal petition with reference to the crossing at Main street, setting out that what was and is sought was the making permanent of a crossing at Main street, which crossing is and always has been the most commonly used access to the railway station.

In the case of High River, negotiations took place between the town and the railway company which did not result in a complete agreement, but served only to indicate the respective positions of the parties. The town desired, in addition to the crossing at Fourth street, to have the passenger station of the company removed to the neighbourhood of that crossing, and offered, in consideration of these advantages, to pay a certain sum towards expense of such removal, and to procure for the railway company a piece of land for the prolongation of its yard at the town in a southerly direction. The company claimed to be bound by an agreement with a private party which prohibited it from removing the station to the desired position, and objected to the establishment of a street crossing at Fourth streeet, but offered to allow a crossing to be established at Third street and to remove the station to the neighbourhood of that crossing, provided that town would procure for the company the proposed lands, and would close the admittedly existing highway crossing over the railway at Seventh street. The town refused to accept the condition for the closing of the crossing at Seventh street.

In the case of the town of Olds, the railway company offered a crossing at Second street, with an extension of Railway street (which runs parallel with the railway) to Seventh street, and another crossing at Seventh street. The town was willing to limit its request to a crossing at Third street and one at Seventh street, with the extension mentioned.

Didsbury is not a town, but a village municipality, established under the ordinances of the Northwest Territories. Counsel for the village claimed that a public

highway had been established at Didsbury by dedication of the railway company, after the construction of the railway. It was not suggested that any public highway had existed at that point before the railway was constructed. The contention on behalf of the railway company, was that it was incompetent for the company to establish a highway by dedication without leave of the Railway Committee of the Privy Council under the legislation preceding the Railway Act, 1903, or of the Board since its establishment. Counsel for the village argued that the railway company could so dedicate without leave.

In the case of the Leduc application, which is also a village established under the ordinances of the Northwest Territories, counsel for the railway company submitted an offer to allow a crossing to be authorized at Main street, as well as another at Douglas street, in the village, upon the condition that it should be ordered that, in case of any protective measures or appliances being required at the crossing in the future, the cost thereof should be borne by the village. It was claimed, on behalf of the village, that it hal for a long time a crossing at Main street, and that the village ought not to be now bound to bear such expense.

Judgment, Chief Commissioner, November 6, 1906.

. . . . . In connection with these cases it appears to be desirable to consider the functions of the Board with respect to railway and highway crossings. Section 184 authorizes the Board to grant leave to a railway company to carry its tracks upon, along, or across an existing highway. Section 186 lays down a method of procedure 'upon any application for leave to construct the railway upon, along or across an existing railway,' and authorizes the Board to grant such application upon such terms and conditions as to protection, safety, and convenience of the public as it may deem expedient, or to order that the highway be carried over or under the railway and works to be executed or measures taken to remove or diminish the danger or obstruction arising or likely to arise therefrom; and section 187 confers upon the Board the power, in the case of a railway already existing upon, along, or across a highway, to make any order in respect thereto as in the previous section provided.

Other provisions of the Act impose upon the railway company specific duties with reference to highways, or assign to the Board certain specified powers with respect thereto; and the Board, under the general jurisdiction given by section 23, is empowered to compel railway companies to observe the duties cast upon them by such provisions of the Railway Act.

As I have previously had occasion to point out, the Board is a creature of the statute, and has only the powers given to it by statute. While constituted a court for the purpose of exercising the jurisdiction conferred upon it, the Board is not a court for the determination of all questions arising between the public or individuals and a railway company. The Board has no general jurisdiction to determine whether a public right of crossing over a railway exists; but, in cases in which it is called upon to exercise the powers specifically conferred upon it with respect to highways, or its jurisdiction to enforce performance of the duties of railway companies with respect to highways, it has incidentally, the power to inquire and determine whether, in fact, a right of crossing does or does not exist at a particular point.

For two or three years the public were in the habit of crossing the railway upon the line of Hespeler street in Didsbury, and this was facilitated by the grading of a street line upon the company's right of way outside the rails and by planking at and between the rails. This work has been undone and the crossing so obstructed that the public cannot now cross. It appears to me, that, if there is a public right of crossing at that point, the Board has jurisdiction, under sections 186 and 187 of the Act, to direct that such measures be taken as to enable the public to cross there safely and conveniently, and that, for the purpose, the Board has jurisdiction to determine whether the right of public crossing exists.

The Railway Act, 1903, nowhere prohibits in express terms the construction of a highway, or the giving of a public right of crossing over a railway, without the leave

of the Board; but it appears to assume that, for some purpose, such leave is necessary. I take it to be assumed that, without some provision therefor, a municipality or other body having power under the local law to open a highway across private property without the consent of the owner, could not open such across property dedicated by authority of the parliament of Canada to the purposes of a railway; and it appears to me that the provisions of section 186 are intended, in part, to afford the means of enabling such municipality or body to do this where the public interests require it. But, in my opinion, this clause enabling the Board to give leave for the construction of a highway across a railway, was not intended to provide a means by which private individuals, or bodies not otherwise possessed of power to open highways, could do so.

In this connection the question naturally arises whether the steps to open such a highway must be taken by the municipality or other body in accordance with the law generally applicable to the opening of highways, and whether compensation has to be given and determined according to such law.

I have never hitherto been called upon definitely to determine that question, which is by no means a simple one. Hitherto, without careful consideration, I have expressed an inclination to the view that the local law is applicable. On further consideration, however, I doubt this; but, in view of the fact that the point is, so far as I know, wholly unsettled by authority, and of my having previously used expressions which may have induced parties to consider the question to be settled so far as this Board is concerned, I would be ready to receive any argument upon the point which any one might desire to offer. It is very probable that parliament intended the whole matter to be settled by this Board, and all the conditions in respect of compensation, as well as of procedure, construction and precautions, to be determined by the Board. Section 36 gives to the Board general power to impose terms in making an order, and the provisions of section 47 appear capable of application to such a case without undue straining of language. The Board has already decided that it is not bound to grant compensation to one railway company for the crossing of its line by the railway of another company; and the same principle might well be applied in cases of highway crossings.

But it should be observed that the power of the Board in this respect is to give leave. The Board is not authorized to direct or compel railway companies to construct or make highways across their lands where a public right of crossing does not already exist by law, though it may give leave to a company or to some other bodies, on some terms, to do so.

In the Didsbury case, counsel for the railway company cited the remarks of Hon. Mr. Blair, when Chief Commissioner, in an application made by the city of Calgary, in 1904, deported in volume 10 of the reports of proceedings of the Board, at page 4527, as follows:—

'Hon. Mr. Blair: Your legal position I cannot think would be very much improved or strengthened by reason of what has transpired; without an order of the Railway Committee of the Privy Council, or without an order of this Board, you have no legal right whatever to cross those tracks, notwithstanding or no matter what may have been the understanding between you, or the agreement between you, or the user which has taken place, and no matter what dedication may have been made. The matter of dedication of a highway there would be a totally distinct and separate thing from the legalizing of the use of the right of way, or that portion which is occupied by the tracks of the railway company for the purposes of a public highway. You have got to have that authority or else you have no legal ground upon which to stand.'

Upon a previous citation in another case of these remarks, I expressed myself as being inclined to the same view. Counsel for the village, however, argued strongly for the power of the railway company to dedicate a portion of its right of way for use as a public highway without leave of the Railway Committee or of this Board. Upon a reference to Canadian authorities I do not find that the contention of the

railway company is as well supported as I was inclined to think at the time of the hearing. Guthrie v. Canadian Pacific Railway Company, 31 S.C.R. 155, and Grand Trunk Railway Company v. Valliear, 2 Can. Ry. Cas. 245, 3 Can. Ry. Cas. 399, 7 O.L.R. 364, related to private rights; and Grand Trunk Railway Company v. Valliear was so distinguished in the Court of Appeal.

The expresions used by Hon. Mr. Blair and myself may have led counsel for the railway company to omit careful examination or argument of the question; and counsel for the village did not discuss the Canadian cases or the terms of the Railway Acts. It appears to me desirable, therefore, that before the Board makes a definite decision upon this important question, an opportunity should be given to the parties to present such further arguments in writing as they may desire; and, in this connection, it would be desirable that further consideration be given by counsel to some other questions, such as the sufficiency of the evidence to warrant an inference of an intention on the part of the railway company to dedicate, and the power of the Canadian Pacific Railway Company to do so in respect of the line of the Calgary and Edmonton Railway Company; and the Board should be furnished with evidence of the relations of these two companies respecting the line. I understand that the line is under lease to the Canadian Pacific Railway Company, which may have no power to dedicate any portion of the land of the Calgary and Edmonton Railway Company as a public highway, even if it could so dedicate a portion of its own land; and circumstances which would warrant the inference of a dedication by the company whose officials are operating the railway, might be quite insufficient to warrant such an inference as against the lessor.

Towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway. Necessarily they must submit to many inconveniences inseparable from such a situation. Where the Board exercises a discretionary power to determine at what points on such a railway street crossings shall be opened, it is obliged to consider the relative convenience of the public and the railway company as well as the public safety. The efficient operation of the railway is a matter of importance to the public generally and to the residents of the particular locality dependent upon it. It is particularly incumbent upon the Board to protect the public from the dangers attending such crossings; and in the performance of this duty, it must be on its guard against being too readily influenced by the insistence of those desiring relief from present inconvenience and led by self-interest to minimize the danger.

An examination into the position at High River indicates the importance to the community of a street crossing near the business centre of the town. It is admitted that the town was laid out by the original promoters of the railway, who, therefore, are in some measure responsible for the situation which has developed; and the company at present operating the railway must, for an application of the kind in question, be treated as affected by this responsibility. On this ground, it appears to me that there should be a crossing at Third street upon the terms agreed to by the town, which appear to afford reasonable compensation to the railway company. Under the circumstances of the town and the probability of its growth westward, the closing of Seventh street should not be insisted upon.

As regards Olds, the situation appears to be much the same. The convenience of the community, it appears to me, demands the crossing at Third street; but, for the present, I do not think that more should be allowed, or that the southern crossing offered by the railway company as a condition of being relieved of the crossing at Third street should be authorized.

At Didsbury, the promoters of the railway laid out the town site on one side of the railway only, retaining, in one block, land lying along the other side of the line. They held out no inducement to the growth of a town or village to the east of the railway. Such growth as has arisen there is upon land thus separated from the railway and the town on the western side. The village is much smaller than High River, and

the importance of a crossing at a particular point is not so great. The public have not long been accustomed to regard the crossing at Hespeler street as an open one. If there were no question of the existence of a public highway at Hespeler street, but the case was submitted merely to the discretion of the Board, I would not be in favour of authorizing the crossing at that street. If the railway company will so place the warehouses on the east side of the track as to be convenient to the crossing at Waterloo street, that crossing should, in my opinion, sufficiently answer the needs of the village.

It does not appear that the village has full power to open highways. Apparently this power was not given by the ordinances under which it was constituted. We have been referred to a late statute of the province of Alberta, the terms of which I have not yet had an opportunity of learning. Unless the village has such power, I do not think that this Board can authorize the village to open a highway over the tracks of the railway company against the will of the company, although the Board might empower the company to open such a highway if it was willing to do so.

As to Leduc, I think that the company ought to open Main street, at least, unconditionally, leaving the question of protection for future consideration when the necessity arises. The company expressly indicated the crossing at Main street as open in answer to the application for the making of a crossing at Mill street. If the company is unwilling to do this, the matter is open to the same difficulty as in the case of Didsbury, though, upon its appearing that the locality has become incorporated as a town, an order might be made. If, upon further consideration of the Didsbury application, it should appear to the Board that, without leave, the company could dedicate a strip across its land as a public highway, and the company is unwilling to allow the crossing at Main street as suggested, the village should have an opportunity of showing the existence of a public highway across the railway at that point.

Orders issued accordingly in the case of the applications of the town of High River and the town of Olds.

NOTE.—The parties have been asked to submit further arguments in writing in respect of the question of the power of a railway company to dedicate a portion of its right of way for use as a public highway without authority of the Railway Committee of the Privy Council, under the Railway Acts, previous to the establishment of the Board, or of the Board since its organization.

High River Case.

Judgment in concurrence, Mr. Commissioner Mills.

I cannot help feeling that when a company, running a line of railway through a locality, fixes upon a place for its station and lays out a town site on both sides of its tracks, providing for streets running through the town (across its railway), and prohibiting the people who may settle in the town and use the said streets, from crossing the said railway within the limits of the railway yard, varying in length from one-third to one-half mile or more, it (the said company) thereby creates an unreasonable and intolerable business condition, such as no class of people, whether living in the town or going there to do business, should be asked to submit to.

The unreasonableness of the prohibition above referred to is shown by the fact that in nearly every such instance the local railway officials allow people on foot to pass illegally across the railway tracks within the prohibited limits, as the members of the Railway Commission, their officials, and many others did on the day of the recent visit of the commission to the town of High River; and in not a few such places, vehicular traffic is allowed to pass illegally across the right of way and over the tracks within the prohibited limits, because the prohibition is felt and tacitly acknowledged by the railway officials themselves to be unfair, if not altogether indefensible.

For this intolerable business condition, the railway company is primarily responsible; and the people who, with knowledge of the facts, settle in a town where such a condition exists, are perhaps to some extent responsible, in so far as they thereby tacitly agree or consent to work and live where such condition is imposed.

Therefore, I am of opinion that, in such cases, some measure of relief should be granted, and that the railway company should bear, say, one-half of the expense of providing such relief.

All rail-level crossings involve more or less danger, farm crossings, highway crossings, street crossings over single tracks in cities, towns and villages, and street crossings over two or more tracks within the limits of railway yards, some close to stations and others at greater or less distance therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because public opinion (the law-making power) long ago decided and still maintains that such crossings are absolutely necessary. I admit that rail-level crossings through a railway yard are specially objectionable and should be avoided as far as possible; but, on account of the intolerable condition above described, the need for such crossings has been so great that, notwithstanding the danger, they have been made in nearly every town or village (not to speak of cities) through which a railway passes in the older provinces; and it appears to me that the Board of Railway Commissioners, especially on account of the increased and ever increasing length of railway yards, is now and will hereafter be under obligation to grant such crossings in response to reasonable applications and appeals by the business people of the country, until such time as there is special legislative provision for distributing and in some way defraying the expense of subways, overhead bridges, or other special forms of protection at many, if not most, of the crossings in our cities, towns and villages.

Further, rail-level crossings, especially crossings through a railway yard, cause a certain amount, possibly a considerable amount, of inconvenience to a railway company. This is admitted. Nevertheless I think it is manifest that such crossings must continue to be made until, as above suggested, there is special legislative provision for the construction of subways or overhead bridges at crossings which cannot be properly protected by the ordinary and less expensive methods. At present the question is who shall bear the inconvenience, the public or the railway companies? My opinion is, first, that the inconvenience should be equitably divided; and, second, that no class of people in any city, town or village should, in the transaction of business or the discharge of social or civil duties and obligations, be compelled to walk or drive unreasonably long distances in order to cross the right of way and track or tracks of any railway company.

In speaking of the Calgary and Edmonton Railway, I may say that I do not question the correctness of the statement that 'the towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway'; but, I might ask, if it is not equally true that the Calgary and Edmonton Railway owes its existence and its manifestly profitable traffic to the said towns and villages and the trade of the farmers who use the streets thereof.

I admit also that the Board should 'consider the relative convenience of the public and the railway company, as well as the public safety,' and should not forget that 'the efficient operation of the railway is a matter of importance to the public generally, as well as to the residents of particular localities dependent upon it'; but the experience of railway companies and of the public generally in the older provinces of the Dominion goes, I think, to show that the interests of neither the one nor the other have been seriously sacrificed by granting the residents of particular localities reasonable facilities for doing business on the opposite side of the lines of railway which pass through the cities, towns or villages in which they live.

I do not attach much importance to the insistence of those who seek relief; but I desire to give due weight to the facts in each case; and I never can bring myself to think that the board, on any mere theory of inconvenience to the railway company

or from a desire to meet the wishes of the general public for more rapid transportation, is justified in allowing a railway company to create and maintain unreasonable or intolerable business conditions in any city, town or village through which it passes; and while I do not desire to minimize the danger of crossings through railway yards or elsewhere, I would venture the statement that most of the accidents on the railways in this country are due, not to crossings, but to collisions of various kinds on the railways, and to carelessness or recklessness in shunting, which results in the death of so many railway employees.

Therefore, my opinion is that the municipality of High River should be authorized to cross the right of way and track or tracks ofthe Calgary and Edmonton Railway Company on Third street in the said town as soon as it obtains and transfers in fee simple to the said company, the plot of land agreed upon between the company and the municipality, all as per agreement between the parties; and that Seventh street, in the said town, should be kept open and maintained as heretofore for the use of the public in that locality.

November 10, 1906.

Didsbury Case.

Judgment in dissent, Mr. Commissioner Mills.

Findings—

That the Calgary and Edmonton Railway Company graded and planked the railway crossing on Hespeler street, Didsbury, Alta., opened the said crossing, and maintained it during a continuous period of about four years, for hauling freight to and fro between the village on the west side of the railway and the freight tracks or sidings on the east side of the main line, and for general use by all who cared to travel to and from the east side of the railway, whether the residents of the village on the west side, the property holders on the east side, or the farmers and others in the country lying east, northeast, and southeast of the village.

That during the time that the crossing on the said street was in use, and without any kind of notice or intimation that it would ever be disallowed or closed, some seventy lots of lands were bought on the east side of the railway, in what is now called Lacknerville, or Didsbury East. These lots, it appears, were bought and some houses were built in good faith and under the undoubted impression that on Hespeler street there would continue to be, as there had been, a regular public crossing over the railway, open at all times for the use and convenience of those who might wish to pass to and fro between their property on the east side and their place of business in the village on the west side of the railway.

That the owners of the said lots, with or without houses, have vested rights which they acquired on the faith that the railway company would continue to do as it had done regarding the said Hespeler street crossing, which crossing the company had itself established, maintained, and allowed the public to use without let or hindrance for a period of four years or longer.

Expressions of Opinion—

No doubt the railway crossing on Hespeler street did, when in use, and will, if restored, involve two things:

(1) Some danger to the travelling public in that locality.

(2) Some inconvenience to the railway company.

All rail-level crossings involve more or less danger—farm crossings; highway crossings; street crossings over single tracks in cities, towns and villages; and street crossings over two or more tracks within the limits of railway yards—some close to stations and others at greater or less distance therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because they are

regarded as absolutely necessary; and they must, in my opinion, continue to be made, with or without protection and notwithstanding the danger, until such time as special legislative provision is made for defraying the cost of subways or bridges at crossings which involve serious risk. This, I take it, is the reason why the Railway Committee of the Privy Council allowed and legalized hundreds of more or less dangerous rail-level crossings on streets and through railway yards in the cities, towns and villages of the Dominion.

Further, every rail-level crossing, especially a crossing through a railway yard, causes a certain amount, possibly a considerable amount, of inconvenience to the railway company; and, after carefully considering the whole situation and circumstances, I am of the opinion that this inconvenience, like the danger above referred to, must continue until legislative provision is made for subways or overhead bridges at such crossings as cannot be satisfactorily protected by the usual means now in use. At present, the question is, who shall bear the inconvenience, the public or the railway companies? My opinion is that the inconvenience should be equitably divided; on the one hand, the railway companies should not be embarrassed by too many crossings through their yards—municipalities should not, in some instances, be given all the crossings they ask for; and, on the other hand, no class of people in any city, town or village should, in the transaction of business or the discharge of civil and social duties or obligations, be compelled to walk or drive unreasonably long distances in order to get across the right of way and track or tracks of a railway company.

In my opinion, the aim of the Commission should be, not to restrict, hamper or embarrass the business community by refusing or closing such railway crossings as reasonable convenience demands, but to provide protection at dangerous crossings and endeavour to distribute as equitably as possible the cost of such protection.

The distribution of the cost of protecting a railway crossing must always depend upon the facts and circumstances: Who created the necessity for the crossing? Who is responsible for the facts and circumstances which have made the demand for the crossing a reasonable one? Who is or are served by the crossing—the railway company alone, the municipality alone, or both, or the railway, the municipality and the outside, surrounding public? What has caused the danger that makes the protection necessary—increased traffic on the railway, the running of fast through trains, or the growth of population and industries in the municipality?

I had stated my views *re* the distribution of the cost of protecting certain crossings in the village of Didsbury; but out of deference to the opinion of the Chief Commissioner, I decided to leave that question for future consideration—to be settled when the occasion arises—and shall deal only with the application for the reopening of the crossing on Hespeler street in the said village.

In reference to this application, I may say that, for reasons which were obvious, though not openly avowed at the hearing, the railway company did not, in the case of Didsbury, lay out and sell any portion of its land on the east side of its line of railway, and did not thus contribute to any inconvenience which might result from a lack of crossings over its railway in the village; but, as already stated, it laid out the village on the west side of its line, placed its freight shed and freight sidings on the east side of its line, and established a regular crossing over its tracks on Hespeler street in the said village. For a period of four years or longer, the said Hespeler street crossing was used, not only for the business of the company, but for all kinds of traffic —village and farm traffic alike—without let or hindrance from the company, or any kind of intimation that the said crossing would ever be closed; and the evidence shows that, under the impression that on Hespeler street there would continue to be, as there had been, a regular public crossing, a number of people bought lots on the east side of the line, some of them built houses there, and others spent a considerable sum of money on Hespeler street, east of the line, in order to improve the road leading up to the crossing on the said street. Then, after a number of people had thus acquired rights on the east side of the railway, the railway company, without notice, closed the

crossing on Hespeler street and opened another which it thought would better serve its purpose. This course of action by the company does not seem to me to be quite fair or reasonable; it might, perhaps, be described as arbitrary; and if the Railway Commission should approve of its as a fair and reasonable proceeding, it would, I think, thereby take a serious step towards establishing a new principle of law in dealing with the question of vested rights.

Therefore, my judgment is:

That the said Hespeler street crossing over the right of way and tracks of the Calgary and Edmonton Railway, in the village of Didsbury, in the province of Alberta, should be re-opened and maintained as a regular public crossing over the said railway at that point; the grading on each side of the track or tracks to be maintained in good order by the village, and the planking, not less than twenty feet long, between and on the outside of each pair of rails, to be laid and kept in good condition by the railway company.

February 1, 1907.

Re *Queen's Wharf Crossing, Toronto.*

This was an application by the Canadian Pacific Railway Company for an order to vary the order of the Railway Committee of the Privy Council, dated February 8, 1898, and the order of the Board, dated July 27, 1905, by directing that the entire cost of operation and maintenance of the diamonds, interlocking, derailing, and signal appliances at the Queen's wharf crossing, in the city of Toronto, of the applicant company's line of railway by the Grand Trunk Company's lines be borne by the two companies in the proportion which the total number of cars belonging to one company passing in any direction over the crossing bears to the total number of cars belonging to the other company passing in any direction over said crossing.

By an agreement between the two companies, the Grand Trunk Railway Company granted to the Canadian Pacific Railway Company running rights from the city of Toronto to the city of Hamilton, and by the agreement the expenses of maintenance of the tracks, &c., so used, and the other expenses connected with the operation of the section jointly used, were to be divided between the two companies upon a wheelage basis. The tracks so used are a portion of those crossing the Queen's Wharf spur of the Canadian Pacific Railway Company.

At the hearing (October 23, 1906), the applicant company claimed to be the senior company and to be entitled, on that account, to have the total cost of the protective appliances borne by the Grand Trunk Company.

The order of the Railway Committee of the Privy Council orally pronounced was that as the origin of the two companies was so close together in point of time, the committee was not called upon to determine the question of seniority, and that, therefore, each company should bear half the cost of construction, the cost of maintenance to be governed by the agreement.

It does not appear that any application was made by the applicant company to the Railway Committee for a change in the order, although there was some correspondence between the two companies in respect of the apportionment of the expenses between them.

Judgment, November 16, 1906.

Chief Commissioner: It appears to me entirely too late to take the ground that the order orally pronounced by the committee was varied on a subsequent application of the Grand Trunk Company without notice to the Canadian Pacific Company. Such an objection should be raised at once upon the order coming to the notice of the complainant company. And it appears to me, also, that this Board should not now reconsider a decision of the Railway Committee upon the facts which were before it. It was the body established by law to determine such questions when the application

came before it and when its order was made. The Railway Committee was a body whose membership was frequently changing. It would have been wholly unreasonable for that body to adopt the policy of changing its decisions with changes in the opinions of individual members of the committee. It would be equally unreasonable, it appears to me, for the new tribunal which has taken the place of the committee to substitute the individual views of its members for those of the former tribunal. It is true that the Railway Act gives to this Board authority to vary orders of the Railway Committee, as well as to vary its own orders; but such jurisdiction, it appears to me, should not ordinarily be exercised except under changed circumstances, or for the purpose of rectifying errors which appear to have occurred through want of information, oversight or otherwise. Even in the latter cases, application should be promptly made, as the facts respecting any alleged error or oversight are much more likely to be then ascertained.

When the application was before the Railway Committee it was, of course, unknown in what proportions the crossing would be used by the two companies, and there was very little before the committee which would enable it to judge the probabilities in this respect. But such must usually be the case.

I do not think that it would be reasonable or just to take up in this way individual cases in which it may appear that one company or the other is contributing an undue proportion of expenses of the kind in question, having reference to the respective proportions in which they use a crossing. If former orders of this kind are to be revised on such a principle, the general policy should first be determined upon, and a general inquiry made respecting at least all such as any railway company should desire to have considered. I doubt whether any company would derive from such a general inquiry an advantage which would recompense it for the expense and labour of engaging in it, and I doubt, also, whether the result would repay railway companies for keeping the necessary accounts respecting a number of crossings. If it is desired that the Board should take up the consideration of the adoption of such a general policy, it might be made a subject of discussion with the railway companies generally; but, in the meantime, it appears to me that the Board should not interfere with the order of the Railway Committee. The question whether, under the agreement between the two companies, the half ordered to be paid by the Grand Trunk Company should be charged against the expenses to which the Canadian Pacific Company has to contribute, is not a question, in my opinion, for this board to determine.

Re *Crossings of Railway Companies by Transmission Lines of Power Companies.*

By order of the Board of August 7, 1906, the Kaministiquia Power Company was granted leave to erect and maintain its transmission lines across the tracks of the Canadian Pacific and Canadian Northern Railway Companies' right of way at West Fort William, subject to the conditions set forth in the order, among which were the following:—

'1. That the applicant company, at all times, at its own expense, maintain, in good order and condition, the wires crossing the said railways so that at no time shall any damage be caused to the companies owning, operating or using the said railways, or to any person lawfully upon or using the same.

'2. That the applicant company, at all times, wholly indemnify the companies owning, operating or using the said railways of, from and against all loss, costs, damage and expense to which the said railway companies may be put by reason of any damage or injury to person or property caused by any of the said wires or any works or appliances herein provided for not being erected in all respects in compliance with the terms and provisions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition, and in accordance with the terms and provisions of this order, as well as any damage or injury resulting from the

imprudence, neglect or want of skill of any of the employees or agents of the applicant company.

'3. That no work, at any time, be done under the authority of this order in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic on the said railways.'

The Canadian Pacific Railway Company applied for an order amending the said order, to provide that the erection, construction and maintenance of the said wires be wholly at the risk of the Kaministiquia Power Company, and the said company indemnify and save harmless the Canadian Pacific Railway Company 'of, from, and against all loss, cost, damage and expense from any cause whatsoever to which the applicant company may be put by reason of any damage or injury to person or property or otherwise resulting from the erection, construction, operation or maintenance of the said wires or any working appliances which may be provided in connection therewith.'

In support of this application, the Canadian Pacific Railway Company alleged that the construction, operation and maintenance of high potential wires across its right of way was a source of the gravest danger to it, its property, and to the property and persons of those using the railway; that the presence of the said wires, even though properly protected so far as human foresight could provide, nevertheless meant that, in the case of an accident, whether due to exceptional causes or not, the resultant damage to the applicant company's property and that of third persons would be very far-reaching and was not a risk that should, under the circumstances, be assumed by the applicant company; that they should, therefore, be insured against any such loss, and requested that clause two of the order in question be amended in accordance with the application. The Canadian Northern Railway Company concurred in the application.

By agreement, written arguments were submitted upon the question thus raised. Express agreements had been entered into between some of the power companies and some of the railway companies affected respecting a number of such crossings and the protection to be provided thereat. These agreements were approved by the Board and orders issued accordingly. Among the provisions of such agreements are the following:—

'And the power company covenants and agrees that it will indemnify and save harmless the party of the first part, its agents, operatives and employees of and from any and all claims of every name, nature and description which shall be made against the railroad company or against such operatives or employees, by reason of any injury which shall come to any of them, or to the public, or to any property in transit upon such railroad because of the operation of its transmission lines or any thereof under this grant and license, and whether such injury shall be sustained through the derailment of any locomotive or car of the railroad company or otherwise, it being intended that all the risk of all accidents incident or arising from the construction, maintenance or operation of such cables over the railroad of the railroad company, however occurring, shall be borne by the power company. The railroad company is to notify the power company in writing of any such claims or of any suit for the recovery of such damages, and the power company may with the support of the railroad company arrange with the claimant or defend such suits.

'All the work to be done by the power company or by its contractors, agents or servants in connection with the doing of the said work, or in connection with the repairs, renewals, or maintenance thereof, shall be done at the risk of the power company without expense to the railroad company.....

'The power company covenants and agrees to keep, abide, and perform all the terms and conditions hereof, and shall and will at all times indemnify and save harmless its contractors, agents or servants, or to the agents or servants of any such contractors, or be done, incurred or caused by reason of the construction, repair, renewal, maintenance or use of the said work.

'The railroad company shall not in any case be liable to the power company or to its contractors, agents or servants, or to the agents or servants of any such contractors, for any injury or damage to the person or property of the power company, or to the person or property of any of its contractors, agents or servants, or to the agents or servants of any such contractors which may happen, or be done, or caused by, or by reason of the doing of the said work, or during the repair, renewal, maintenance or use thereof; and the power company shall and will assume and does hereby assume all responsibility and liability for any and all such injuries and damages, whether caused by negligence of the railroad company, its agents or servants, or otherwise; and the power company shall and will indemnify and save harmless the railroad company, its successors and assigns, of and from all damages, claims for damages, demands, suits, recoveries, judgments or executions which may arise, or may be made, had, brought, or recovered by reason of or on account of any such injuries or damages. And it also covenants and agrees to indemnify and save harmless the railroad company, its agents, servants and passengers of and from all loss, injury or damage to it or to its agents, servants, or passengers, which may happen or be done or caused by reason of the doing of the said work, or by, or by reason of the repair, renewal, maintenance or use thereof, or by, or by reason of any failure to repair, renew or maintain the said work.'

The contention of the Canadian Pacific Railway Company was that the lines of the Kaministiquia Power Company were carried across land owned by the railway company; that no compensation had been given to it for this interference with its right of property; that the wires were to be used for the transmission of something from which there was great risk of injury; and that the railway company could not be compelled to bear any of the risk this occasioned while it arose from the default of the power company or from any source beyond the control of the power company.

The original application asked that the risk be thrown absolutely upon the power company, without providing for cases in which the injury might be due to the default or negligence of the railway company or its agents; but in the written agreements referred to, the railway company did not go so far, but suggested a clause which excepted from the liability proposed to be thrown upon the power company 'any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents or employees.'

Judgment, Chief Commissioner, November 17, 1906.

It appears to me that the contentions of the Canadian Pacific Railway Company are well founded, and that it ought to be at no risk of loss arising from the placing of such wires across its right of way or the transmission of electric power thereon, excepting in cases in which the loss is primarily due to its default or that of those for whom it is responsible. Telephone wires over railway tracks cause a measure of physical obstruction, from which there is some possibility of danger. Contact between such wires and other wires may result in injury. But there is no such danger ordinarily attending their existence over railway tracks as in the case of wires transmitting high electric power. Usually, too, telephone wires are carried along highways and across railway tracks where the company does ont own the land but has merely a right of crossing the highways; and it is not necessary, at present, for the Board to determine what orders shall be made where power wires cross a railway upon a highway.

It appears to me that the clause now suggested by the Canadian Pacific Railway Company as a substitute for clause 2 of the original order and of the draft of the order proposed to be made in respect of the power company's second application, is a reasonable one and should be adopted. The clause is as follows:—

'That the applicant company shall, at all times, wholly indemnify the railway company of, from, and against all loss, cost, damage, and expense to which it may be put by reason of any damage or injury to person or property or business caused by any of the said wires, lines, or any work or appliances herein provided for, or by the continuance or use thereof, whether caused by the same or any of them not being erected in all respects in compliance with the terms and conditions of this order, or

if, when so erected, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of this order, or otherwise howsoever caused, as well as of any damage or injury resulting from the imprudence, neglect or want of skill of any of the employees or agents of the applicant company: Provided, however, that the applicant company shall not be required to indemnify the railway company from and against any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents ,or employees.'

The power company now alleges that it has constructed its works under the order of August 7, and that that order at least should not now be varied. It appears to me, however, that as the question is a new one and as it was raised so promptly after the railway company had received notice o fthe order made, the power company's objections should not prevail.

January 24, 1907. Upon the statements made in Mr. Montgomery's further communication of December 11, 1906, it appears that the Kaministiquia Power Company has power to construct lines for the transmission of electricity upon and along highways. I understand that this is not disputed by the railway companies, although opportunity has been given for the purpose. This being the case, I think that the power company stands in the position of the telephone company, acting under the provisional order of the Board of Trade, referred to in the National Telegraph Company *v.* Baker (1893), chapter 186; and the Tramway Company, whose lines were constructed under statutory authority, referred to in Eastern and South African Telegraph Company *v.* Capetown Tramway Companies (1902), A.C. 381.

The lines authorized by the Board's order of August 7, 1906, are not constructed across the lands of railway companies, but along the highways in respect of which the railway companies have merely rights of crossing. Under those circumstances, it does ont appear to me that the power company should be responsible for any injury except such as may arise from its negligence or that of its servants or agents, and, in respect of such, the railway companies need no protection by order of the Board.

I am, therefore, of opinion that we should not vary the original order in this case.

February 4, 1907. The Kaministiquia Power Company was incorporated by the legislature of the province of Ontario, from which it derives any authority that it may have to construct lines along the highways. With its action in this respect, this Board has nothing to do. The board is not asked to give the company any authority to carry its lines along the highways; but as it is doing, and has done, so in accordance with the right which it claims, and as these rights are not contested by the railway companies interested, we may assume for the purposes of the applications before us, that the power company's action is lawful.

As the Board has no authority to give or refuse leave to run along the highways, it does not appear to me that it should impose any condition to that being done. The company applied for leave to carry its wires across the tracks of the Canadian Pacific and Canadian Northern Railway Companies; and an order was made authorizing it to do so. The railway companies have since asked for the insertion of a condition throwing upon the power company the responsibility for any damage that may occur to the railway companies or those using the railways. Upon the grounds expressed in my memorandum of January 24, I do not think that such a condition should be imposed, as between the railway companies and the power company; and I think it best that we should simply refuse the applications of the railway companies, leaving the municipality and the public using the highways to such protection as is given by the provincial law.

In Re *Canadian Pacific Railway Company and Grand Trunk Railway Company, Lennoxville Crossing Case.*

Under an agreement between the Grand Trunk Railway Company and the International Railway Company it was agreed that the said International Railway Com-

pany should bear the cost of providing, maintaining, equipping and working an ordinary level railway crossing, together with all risk arising from such construction and operation. The agreement also contained the following provision: 'In the event of the government of this Dominion passing any Act whereby certain signals, interlocking switches, or other appliances shall be used on level railway crossings, it is hereby understood and agreed that the party of the second part' (being the International Company) 'will provide, work and maintain such at their own expense.'

Hearing, October 30, 1906.

Judgment, November 17, 1906.

Chief Commissioner (6 Can. Ry. Cas., pp. 78 *et seqo*): Held, that the said clause of the agreement should not be narrowly construed; that the Board had authority under the Railway Act, 1903, to order an interlocking system at this crossing for the protection of the public.

Ordered, that the Canadian Pacific Railway Company install, maintain, and operate the ordinary interlocking, derailing and signal system, at its own expense, at the said crossing.

Windsor, Essex and Lake Shore Rapid Railway Company Crossing, Talbot Street, in the Town of Essex.

The Windsor, Essex and Lake Shore Rapid Railway Company applied, under section 177 of the Railway Act, 1903, for leave to cross, at rail-level, with its track the track of the Michigan Central Railroad Company, on Talbot street, in the town of Essex.

After hearing and a personal inspection by the Board, and upon the report of its engineer, the Board, on May 25, 1906, made an order authorizing the applicant company to construct its line of railway across the track of the Michigan Central Railroad Company by means of a subway at a point distant not less than 1,200 feet west of the proposed point of crossing on Talbot street.

Later, the applicant company asked for a further hearing of its application, claiming that it had not previously received notice that the Michigan Central Railroad Company proposed to urge the construction of a subway, and that it was not prepared with proper evidence upon that point; that, on account of the nature of the locality, a subway crossing was not feasible there.

The company was directed to formally apply to rescind or vary the Board's order; and upon a further hearing, and in view of the opinions expressed by the chief engineer of the Board, as well as by other engineers, the Board, by orded, dated November 16, 1906, rescinded its previous order of May 25, 1906, directing the construction of a subway, and authorizing the crossing by the applicant company at rail-level, requiring:

(*a*) That the said crossing be protected by an interlocking plant known as the 'McSwain Interlocking Device'; derails to be placed on the applicant company's line of railway, on both sides of the said crossing; and the said derails to be interlocked with home and distant signals on the line of the Michigan Central Railroad Company;

(*b*) That the tracks of the Michigan Central Railroad Company be bonded to a point 400 feet beyond the distant signals;

(*c*) That the normal position of signals on the Michigan Central Railroad be at 'safety,' and the derails open on the applicant company's line;

(*d*) That the plan showing the position of the derails and signals, the description of machinery to be provided, and other necessary details, be submitted to the engineer of the board for his approval;

(*e*) That a day and night watchman be appointed to take charge of the said interlocking plant, who shall also operate the gates at the said point of crossing throughout the whole twenty-four hours for the protection of those using Talbot

street in the ordinary course, the said men to be appointed by the Michigan Central Railroad Company, the wages of one of whom to be paid by the applicant company, and the wages of the other by the Michigan Central Railroad Company.

At the later hearing it was urged by the Michigan Central Railway Company that, before the applicant company can be authorized to carry its track across the line of the Michigan Central Railroad Company, it must have its route and its location plans approved in the manner required by the Dominion Railway Act.

Judgment, Chief Commissioner, November 20, 1906.

Killam, Chief Commissioner: It does not appear to the Board that this is necessary. Apparently the provincial Act did not require approval of the route or location of the railway by an authority. As the Board held before, the requirement in the Electric Railway Act of Ontario that plans be filed with the provincial Minister of Public Works was a condition only to the exercise of the right to expropriate land and not a condition precedent to the right to construct or operate the railway. The company's Act of incorporation, 1 Ed. 7, c. 92 (Ont.), provided that the railway might be carried along and upon such public highways as might be authorized by the by-laws of the respective corporations having jurisdiction over the same. It is not disputed that the necessary authority to run along the highways has been given by municipal by-laws. The original Act, as well as the Ontario Act of 1905, cap. 110, authorized the railway company to carry its line across the line of any other company on the level. Before the passing of the Dominion Act declaring the company's railway to be a work for the general advantage of Canada, the Board heard the application for a level crossing, and made an order authorizing the line to be carried underneath the Canada Southern Railway. The last mentioned Act provided that the Railway Act, 1903, and amendments thereto, with a certain exception, were to apply to the company and to its works, to the exclusion of the Electric Railway Act of Ontario or any provision of the Act incorporating the company or any amending Act inconsistent therewith; but provided that nothing therein contained should affect any action theretofore taken pursuant to the powers in such Acts. The application with which the Board has now to deal is one for a variation of the former order, so as to allow of the crossing being made at grade. The Board is of opinion that such an order may be made without approval of the route or the location of the railway under the Railway Act, 1903.

Judgment in dissent, Mr. Commissioner Mills.

In accordance with the report of the engineer, the Board decided to refuse the application of the Windsor, Essex and Lake Shore Rapid Railway Company for permission to cross the Michigan Central Railway on Talbot street, in the town of Essex, and, instead, to grant the said company permission to construct a subway under the main line of the Michigan Central Railway in the southwestern part of the said town, and to carry its line at rail-level over the tracks of the Amherstburg branch of the Michigan Central Railway.

From this judgment, Mr. Commissioner Mills dissents as follows:—

Whereas steam railway companies have been and still are permitted and authorized to carry their lines of railway, even those on which are the heaviest traffic and fastest trains, across one another at rail-level in all parts of the country;

Whereas the ordinary derailing and interlocking appliances now used by railway companies were approved and ordered by the Railway Committee of the Privy Council and have frequently been approved and ordered by the Railway Commission as affording sufficient protection to the public where one steam railway crosses another at rail-level;

Whereas, by the junction of the block system in use on the Michigan Central Railway with the ordinary derailing and interlocking appliances, and the use of the gates and electric bell now maintained by the Michigan Central at the said crossing

on Talbot street, the protection could, in my opinion, be made more perfect and complete than anything yet ordered by the board;

Whereas the construction of a subway at the point suggested will necessitate such an abrupt, long, and to my mind unreasonable diversion of the electric line as no municipality would permit—much less propose—in the case of a highway for ordinary vehicular traffic;

Whereas the proposed diversion of the electric line in the town of Essex will involve the making of two crossings instead of one, one by a subway under the main line of the Michigan Central Railway where it is impossible to get drainage, and the other at rail-level by the use of a diamond and derailing appliances on the Amherstburg branch of the Michigan Central Railway; and

Whereas interurban electric railways, intended especially to meet the wants of the farming community by carrying passengers for short distances and collecting scattering freight in small quantities throughout the rural sections of the country, receive no bonuses from the Dominion government, local governments, or municipalities, and consequently are unable to bear the cost of expensive subways or overhead bridges such as the heavy subsidized steam railway companies may be able to provide:

Therefore, I have to dissent from the above judgment, on the ground that in my opinion, the proposed diversion of the electric line, with all that it involves, is unnecessary, unreasonable and oppressive—not necessary for the protection of the travelling public, not even efficient for that purpose, as it proposes and involves a level crossing of a regular line of steam railway, at rail-level, with very much less complete and effective protection than could and would be provided at the crossing on Talbot street; unreasonable, because of the length and abruptness of the diversion, which, by the creation of a steep grade and three or four right-angle curves, will greatly diminish the hauling power of the electric line; and oppressive, because it imposes on the Electric Company heavy expense for the purchase of a new right of way through a good and well-peopled part of the town, the burden of an expensive subway where drainage cannot be obtained, and the outlay necessary for a diamond and protective appliances at a rail-level crossing over the Amherstburg branch of the Michigan Central Railway.

May 26, 1906.

Judgment in concurrence, Mr. Commissioner Mills.

This is an application by the Windsor, Essex and Lake Shore Rapid Railway Company, an electric road, to cross the tracks of the Michigan Central Railway, at rail-level, on Talbot street, in the town of Essex, Ont.

After considering the evidence submitted, the arguments of counsel, the report of the chief engineer of the Board, and the whole situation and facts of the case as set forth at the hearings in Windsor and Essex, I may state briefly my opinion on two or three points:—

1. That if a subway off at Talbot street (as proposed), with all the difficulties regarding drainage, were insisted upon, a very heavy, if not altogether intolerable, burden would be imposed upon the applicant company; and the danger to the travelling public in that locality would be greatly increased beyond what it now is, by adding a rail-level crossing of the electric road over the Amherstburg branch of the Michigan Central Railway to the rail-level crossing which now exists (and will continue to exist) for vehicular and pedestrian traffic on Talbot street. In fact, we might fairly say that two things would follow: the applicant company would be burdened, possibly bankrupted; and the danger to the travelling public would be doubled—without any compensating advantage, except in the matter of convenience to the main line of the Michigan Central Railway.

2. That the proposed subway, with its five per cent grade, would greatly hamper and injure the electric road in its freight traffic.

3. That if a rail-level crossing by the electric road over the tracks of the Michigan Central Railway on Talbot street, where a crossing protected by gates now exist for

vehicular and pedestrian traffic, is granted, and stipulation is made that the most perfect form of protective appliances for such a crossing are installed, connected with the gates now in use at that point, and all (the new protective appliances and the gates) operated night and day by men chosen and controlled by the Michigan Central Railway,—if, say, all this is done, there will be only one rail-level crossing instead of two; the Michigan Central Railway will be well served; the electric company will not be embarrassed either by heavy capital outlay or in the operation of its line of railway; and, above all, the danger to the travelling public will be very much less than it would be with a subway and two level crossings, one partially protected and the other with little or no protection.

Therefore, I can only reaffirm my judgment of May 26, 1906, and concur in the conclusion to-day reached by my colleagues, the Chief and Deputy Chief Commissioner.

November 20, 1906.

Re *Kaladar Drainage.*

The facts are fully set forth in the judgment of the Chief Commissioner.

November 20, 1906, Killam, Chief Commissioner:

The Canadian Pacific Railway Company applied to the Board for an order authorizing the company to construct a ditch upon and across certain specified lands according to a plan submitted with the appliation.

The lands in question consisted of certain lots in concessions three and four of the township of Kaladar, and in concession two of the township of Sheffield, owned by different private individuals, only one of whom, James Murphy, has made objection to the construction of the drain through his land or the granting of the order.

The railway actually intersects all the lots except Murphy's, the nearest portion of which is distant several hundred feet from the line of the railway, and is separated from the railway company's property by the lands of other private owners which actually adjoin the railway.

The applicant company relies upon the powers given by subsections (*m*), (*p*) and (*q*) of section 118 of the Railway Act, 1903:

'(*m*) make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

'(*p*) from time to time to alter, repair or discontinue the before-mentioned works or any of them, and substitute others in their stead;

'(*q*) do all other acts necessary for the construction, maintenance and operation of the railway.'

On behalf of Murphy it has been argued that section 196 makes it the duty of the company to make and maintain sufficient ditches and drains along each side of the railway for the purposes of any necessary drainage; that this method is the only one that can be used after the railway has been completed; that this railway has been completed and in operation for many years, and any powers of expropriation of land, or of the use of adjoining lands for purposes of drainage, have been exhausted and cannot now be resorted to; that drainage by means of ditches along the railway has been found to be sufficient for the maintenance of the railway, as evidenced by its use for so many years; and that Murphy lands were not 'lands adjoining the railway' within the meaning of subsection (*m*) of section 118.

Section 196 provides that 'the company shall in constructing the railway make and maintain suitable ditches and drains along each side of, and accross and under the railway, to connect with ditches, drains, drainage works and water courses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial or existing drainage of the said lands shall not be obstructed or impeded by the railway.'

This clause is evidently inserted for the purpose of imposing upon the company the duty of instituting such a system of drainage along its tracks as will prevent the

interference of its works with the drainage of the lands of others. It is not intended to indicate the powers which the company may exercise for the proper construction and maintenance of its railway. These powers are found in section 118, and among them are powers from time to time to alter, repair or discontinue the works previously referred to and to substitute others in their stead, and to do all other acts necessary for the construction, maintenance and operation of the railway.

Under these powers it appears to me that, when a system of drainage established upon the construction of the railway is subsequently found to be insufficient, improvements may be made therein and such further drainage works executed as will assist in keeping the railway in an efficient condition and relieve it from the danger of injury by water. And I think that, for this purpose, the company may avail itself of the power contained in subsection (*m*) to make drains into or through lands adjoining the railway.

We have been referred to the case of Kingston and Pembroke Railway Company v. Murphy, 17 S.C.R. 582. In that case it was considered that a railway completed according to its charter could not be farther extended and lands compulsorily taken for the purpose. It should be noted, however, that that case was decided under the Railway Act of 1879, 42 Vic., c. 9, which did not contain the provisions of subsection (*p*) and (*q*) before-mentioned, and that what the company there sought to do was to construct an extension of its railway, not to alter or repair the works of its existing railway.

The natural meaning of the word 'adjoining' is lying next to or in contact with; contiguous. Such is the sense usually ascribed to it by the courts. See I Bouv. L. Dict. 93, 1 Am. and Eng. Enc., pp. 635-8; 1 Cyc. 765; Rex. v. Hodges, M. and M. 341; Josh v. Josh, 5 C.B.N.S., 454; Lighthound v. Higher Bebington Local Board, 14 Q.B.D. 849. Numerous United States authorities are cited in the dictionary and encyclopedias just mentioned. But, just as in the case of other words, when it is apparent from the context and subject-matter dealt with that the literal meaning of the word would defeat the purpose of the legislature, it must be assumed that the word was used in a different sense. Moore v. Phœnix Insurance Company, 64 N.H., 140, 6 Atl. Rep. 27; Marsh v. Concord Mut. F. Ins. Co., 71 N.H. 253, 51 Atl. Rep. 898. See also L. & S.W.R. Co. v. Blackmore, L.R. 4 H.L. 610, 39 L. J. Ch. 713; Coventry v. L.B & S.C.R. Co., L.R. 5 Eq. 104; Bateman v. Parker (1899) 1 Ch. 599; Hobbs v. Mid. R. Co., 51 L.J. Ch. 234; Ind. Coope & Co. v. Hamblin, 81 L.T. 779, 48 W.R. 438.

The general principle is best stated in the language in Maxwell on Statutes, 4th ed., p. 78. 'The words of a statute are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strictly grammatical or etymologcial propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used and the object to be attained.' See also Beal on Cardinal Rules of Interpretation, p. 34; The Dunelm, 5 P.D. 171 and Wakefield Local Board v. Lee, 1 Ex. D., at p. 343.

The statute authorizes the construction of drains into adjoining lands. It is obvious that it must be necessary in many instances to find outlets for the drains or ditches along the sides of the railway tracks, and for this purpose to carry drainage works out of and beyond the land used for the railway right of way according to the natural configuration of the ground. In authorizing the carrying of drains through or under adjoining lands the legislature must have contemplated that the drains should leave the boundary line between the company's lands and those of other owners; and it must have contemplated that the distances to which they would be carried would differ according to circumstances. And it appears to me that the legislature could not have had in view the ownership of the particular parcels or strips of land through which it would be necessary to carry such works. Having once adopted the view—which, as it appears to me, is the necessary view—that under subsection (*m*)

the railway company was authorized to carry drains away from the point of contact and into lands of others, I think that it necessarily follows that the power to carry the drains as far as might be reasonably necessary to effect the purpose for which they were to be constructed was included. Naturally such drainage works must be adapted to the formation of the land. It would be unreasonable to suppose that they were to stop at the boundary of the owner of the land next adjoining the railway, leaving the water to run as it would thereafter. In my opinion, ownership should not be treated as an element in determining whether or not the lands are 'lands adjoining the railway' for the purposes of a case such as that with which we are now dealing.

After consideration of the report of one of the assistant engineers of the Board and the evidence taken upon the hearing, the chief engineer of the Board has reported that he is 'of opinion that the sooner the water is taken away from the railway at this point the safer it will be for the railway embankment, and that this is necessary for the proper maintenance and operation of the railway.'

Under the amending Act passed at the last session of parliament, the Board is empowered to make an order giving its sanction or approval to any matter, act or thing sanctioned by the general Railway Act. It does not appear to me that the company needs any sanction or approval from the Board to enable it to exercise the power contained in subsection (*m*) of section 118; but it is convenient that it should submit to the Board proposals for the construction of any such works in order that the Board may exercise some control as to the nature of the works and for the protection of other parties.

The evidence shows that the portion of Mr. Murphy's lot which would be cut off by the proposed drain is of little, if any, value, and that no serious injury would be done to the remainedr of his land by the proposed work.

I think, therefore, that the order should go sanctioning and approving the construction of the drain as indicated by the railway company, with a condition that the railway company is to construct and maintain a suitable crossing over the drain for Mr. Murphy at such place and in such manner as shall be approved by an engineer of the board.

Re *Express Companies' Contract Forms.*

Section 27 of the Act 6 Edward VII., chapter 42, amending the Railway Act of 1903, gave to the Board certain jurisdiction respecting express companies and the carriage of goods by express.

Under subsection 10 of that section, certain contracts for carriage by express are not to have any force or effect until first approved of by order or regulation of the Board.

By section 11 any such contracts lawfully in use at the time of the passing of the Act were allowed to be continued to be used and to have effect until November 1, 1906, or until such later date as the Board might by order in any case, or by regulation, fix and limit. Before the said November 1, 1906, a number of express companies submitted forms of contract used by their respective companies with a request for their approval.

Upon an examination and consideration of these forms ,the Board decided to extend for six months from the said November 1, 1906, the time within which the forms previously in use could be used by express companies, or for carriage by express, and did extend the time as aforesaid by regulation dated November 13, 1906, with the qualification that the regulation should 'not have the effect of authorizing any company, person, or corporation, after approval of its or his tariffs of tolls by the Board under the provisions of the said Act, to contract or collect in or under any transaction or contract any express toll or tolls within the meaning of the said section 27 higher

than the toll or tolls set out in the tariffs so approved, applicable to such transactions or contract.'

Re *Express Companies' Tariffs.*

Section 27 of the Act, 6 Edward VII., chapter 42, amending the Railway Act, 1903, applies to tolls or charges for the carriage of express matter, either wholly or partly in Canada and between points in Canada and points in the United States by any one company,, and the provisions of the Railway Act, 1903, with reference to joint tariffs, are applicable to tariffs of express tolls under the amending Act.

Chief Commissioner, November 29, 1906.

CLAIMS AGAINST RAILWAY COMPANIES.

The Board has no jurisdiction to compel the railway company to pay for loss of cattle killed or injured by its trains, or for property burned by fires kindled by locomotives, as the statute expressly provides that relief in such matters is to be obtained by action in a court of competent jurisdiction. The Board, however, has jurisdiction to compel the company to put in proper cattle-guards and highway approaches, where it is the company's legal duty to do so.

Chief Commissioner, November 30, 1906.

Re *Rounding off Passenger Tolls.*

Section 258 of the Railway Act, 1903, provides '.....; and in estimating the tolls to be charged in passenger tariffs any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents by the company.'

The question was whether, when a special tariff is made up at less rate per mile than the standard tariff rate, the railway company is obliged to apply the principle laid down in the part of the section quoted.

Chief Commissioner, December 3, 1906.

It does not appear to me that a railway company is so bound. Provided the standard rate is not exceeded and the clauses respecting discrimination and other provisions of the Act are not infringed, a special tariff may be made up either upon a uniform mileage rate or otherwise. Even if made up in general upon a mileage rate less than the standard rate, the company may violate that principle in some cases, and make the rates between certain stations upon another basis, arbitrary or otherwise.

I am, therefore, of opinion that a special tariff can be made without attention to the provisions of section 258, provided the fares are expressed in whole, not fractional, multiples of 5 cents. For instance, if a special tariff is made up at a rate of 2 cents per mile for a line where the standard rate is 3 cents per mile, 25 cents may be charged, instead of 22 cents or 20 cents for a journey of 11 miles.

Chief Commissioner, December 3, 1906.

Re *Neelon Highway Crossing.*

The railway Act, 1903, does not empower the Board to order or compel a railway company to construct a highway crossing over its railway where no highway has preconstruction of a highway across the railway; such leave may be given to the railway viously existed. The power of the Board in such a case is merely to *give leave* for the company, in which case it will be at liberty, but not obliged, to construct the crossing, or leave may be given to the municipal, or other body, having authority to open up a highway across private property without the consent of the owner. In the latter case the railway company is no more under obligation to bear the expense than a private owner would be.

SESSIONAL PAPER No. 20c

Re *James Bay Railway Company's Application to Cross Grand Trunk Railway Belt Line on Robert Davies' Property.*

This application came before the Board as the result of an agreement between the two companies made on the hearing of the two actions for injunction between the two companies in the High Court of Justice for Ontario. The agreement was that the James Bay Railway Company should apply to the Board for leave to make the crossing, and that on this application the board was to decide 'which railway is bound to cross the other, and on what terms, and at whose expense the crossing is to be made.'

The evidence before the Board showed that, before the lodging of the application and before the agreement for making it, the James Bay Railway Company had entered upon the property under a warrant of possession and constructed its tracks across the spur in question, although met with forcible opposition by the Grand Trunk Railway Company.

The Board decided that it was unnecessary for the James Bay Railway Company to make any such application, and treated the track on the Robert Davies' property at the point of crossing as not being a railway line or track of another company within the meaning of section 177 of the Railway Act, 1903, but as being personal property, or, if real estate, as the property of Robert Davies, and made an order giving leave to the James Bay Railway Company to construct its line of railway across the spur track in question without putting in a diamond or otherwise providing for the operation of the spur by the Grand Trunk Railway Company across the line of the James Bay Railway Company, and without compensation to the Grand Trunk Company, thus leaving Davies to get such compensation as he might be entitled to under the Railway Act.

The Grand Trunk Railway Company applied to the Board for leave to appeal from this order upon the following grounds:—

'1. That the tracks of the Grand Trunk at the point in question is a railway line of a company, for the crossing of which by the tracks of the James Bay, leave of the board is required under section 177 of the Railway Act.

'2. That leave of the Board was not necessary in order to enable the Grand Trunk legally to construct (at the point of crossing) the line of railway in question.

'3. That the Grand Trunk Railway Company has an interest in the land at the point in question as against the James Bay, and the James Bay cannot legally use or occupy suc land without the leave of the Board.'

Judgment, Chief Commissioner, December 3, 1906.

Held, that if these questions or one of them should be answered in the affirmative, the James Bay Railway Company could not lawfully have placed its tracks over the site of the spur in question without leave of the Board, and that such leave would not have been given upon the terms embodied in the Board's order. Either a diamond should have been inserted, and the proper method of protection at the crossing determined, or some compensation should have been awarded under section 137 of the Railway Act, 1903.

Leave to appeal upon the following grounds granted: —

1. Did the railway tracks from and connecting with the Belt Line railway constitute, where such tracks crossed the approved location of the James Bay Railway over Robert Davies' property, a railway line or track of a company, leave to cross which by the line of the James Bay Railway Company was required under section 177 of the Railway Act, 1903?

2. Could the Grand Trunk Railway Company of Canada legally construct the said railway tracks on Robert Davies' property at the point of crossing by the James Bay Railway Company, without the leave of the board?

3. Had the Grand Trunk Railway Company, when the James Bay Railway Company constructed its line of railway across the said railway tracks on Robert Davies' property, such an interest in the land occupied by such railway tracks at the said

point of crossing as against the James Bay Railway Company that the James Bay Railway Company could not lawfully use or occupy such land without the leave of the Board?

Re *Canadian Pacific Railway Spur to Great West Development Company's Premises, Winnipeg.*

Judgment, December 5, 1906.

Chief Commissioner:

The Canadian Pacific Railway Company should be asked for some evidence that the proposed spur is necessary in the public interest, or for the purpose of giving increased facilities to business. (Under subsection 4 of section 175 of the Railway Act, 1903).

Where a body like a city or town consents to the construction of a spur line, the Board frequently takes this as sufficient, or it may consider that the nature of the locality to be served, or some other circumstances, afford sufficient *prima facie* evidence to satisfy the statute. In the present case there is nothing. We do not know what the Great West Development Company is. It may be only a speculative real estate company; and as the city of Winnipeg does ont consent and shows some reluctance to consent to the construction of the spur, there should be some evidence to satisfy the statute.

Station Sites.

By section 256 of the Railway Act, the location of station must be approved by the Board, and in case of a railway which, since July 18, 1900, has been granted a subsidy in money or land by the parliament of Canada, the railway company is required to maintain and operate a railway station or stations, with such accommodation or facilities therewith as are defined by the Board, at such point or points on the railway as are designated by the Board's order; and in any case, every station of a railway company is required to be erected, operated, and maintained with good and sufficient accommodation and facilities for traffic, a provision which, under its general jurisdiction, the Board is authorized to enforce.

The view the Board has taken is that the approval by the Board of location plans which appear to leave spaces for station sites, does not satisfy the provisions referred to, requiring that the locations of stations be approved by the Board, but there must be separate orders expressly approving such sites.

Chief Commissioner, February 11, 1907..

Re *Jacob Wright's Farm Crossing.*

This was an application by Jacob Wright for a farm crossing over the line of the Canada Southern Railway Company on lot 29, concession 5, in the township of Enniskillen, in the county of Lambton, Ontario.

Wright is the owner of lands on both sides of the railway. The engineer of the Board reported that the applicant had no farm crossing and that the only way to reach the portion of his land lying to the north of the railway was by way of his neighbour's lands, north of the concession line, necessitating a long and out of the way route.

It appears that when the railway was built the lands were owned by the Crown, but were subsequently surveyed and sold to the original owners. The contention of the railway company is that the lands were surveyed and obtained before the construction of the railway, but that the right of way across the lot was conveyed to the company without reservation before Wright acquired the land on each side of the railway; that under its original Act of incorporation it was not bound to grant farm

crossings to the owners of lands adjacent to its right of way; that the subsequent legislation does not impose upon the company that liability; and that, while not admitting the jurisdiction of the Board to require the making of the farm crossing for the applicant, the company expresses its willingness that such an order be made upon the terms of the applicant bearing the cost of construction and maintenance and paying such sum as the Board thinks reasonable and proper for the privilege, taking into consideration the attendant liabilities in connection therewith.

In the similar case of the Ontario Lands and Oil Company *v.* Canada Southern Railway Company, 1 Ontario L. R. 215, Meredith, J., decided that the railway company was not bound, under its Act of incorporation and the general Railway Act in force when the railway was built, to grant farm crossings, and that the Dominion Railway Act of 1888, which was enacted after the construction of the company's railway, did not apply to cases in which the railway had been previously constructed on land conveyed to the company and the owner of adjoining land had purchased subsequently to such conveyance, as, in his opinion, the railway could be said to be carried over the land of a person where such person did not acquire the property until after the railway was constructed.

Chief Commissioner:

I agree with Meredith, J., in thinking that the decision of the Supreme Court of Canada, in Vezina v. the Queen, 17 S.C.R. 1, conclusively established that, under the general Railway Act in force when the Canada Southern Railway Company was incorporated and when its line was constructed, a company was not bound to grant farm crossings over its line where a right thereto was not reserved in the grant or otherwise agreed to by the company; and I am also of opinion, with him, that where, prior to the passing of the Act of 1888, a person had acquired lands on opposite sides of a railway across which his predecessor in title had the right of way of crossing, the Act of 1888 did not operate to give that right to the new owner. In my opinion, also, the Act of 1888 cannot properly be construed retroactively so as to apply to a railway previously constructed on lands vested absolutely in the company. Section 190 of the Act of 1888 provided—as did section 198 of the Act of 1903—that 'every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway,' &c. According to my interpretation, this provision is applicable only to cases in which the railway has been carried across a person's land since the enactment of the Act of 1888. I have formed this opinion after consideration of the jurisprudence in the province of Quebec, and particularly the cases of Bolduc v. Canadian Pacific Railway Company, Q.R. 23 S.C. 238, the Grand Trunk Railway Company v. Huard, Q.R. 1 Q.B., 501.

For the purposes of the application, therefore, it does not appear material to ascertain whether the railway was constructed before or after the grant from the Crown. I think that the applicant has no absolute legal right to the crossing, and that it can be granted by the Board only in the exercise of the discretion given by section 253 of the Railway Act (subsection 2 of section 198 of the Railway Act, 1903), which provides as follows: '. . . . . .'

Under the report of the engineer I think that we may properly find that the crossing is necessary for the proper enjoyment of the applicant's land on either side of the railway, and that it would be safe in the public interest; but as such an order is one to which the applicant is not entitled of right, and as it would have the effect of creating an easement over property which belongs absolutely to the railway company, and would involve some danger to the company's trains, any expense of construction and maintenance should be borne by the applicant, and the company should receive reasonable compensation.

Deputy Chief Commissioner Bernier expressed the view, in which Mr. Commissioner Mills concurred, that the railway company should undertake to open, construct and maintain a farm crossing at its own expense; and under the ruling of the Chief Commissioner that the Board has jurisdiction to make an unconditional order

requiring the railway company to construct the farm crossing in question, although he did not depart from his previously expressed opinion, the order issued February 15, 1907.

Chief Commissioner, February 26, 1907.

Judgment in concurrence, Mr. Commissioner Mills.

From the report of an engineer of the Board in this case, it seems clear that Mr. Wright's application for a farm crossing should be granted; and the only question is, at whose expense is the crossing to be made and maintained.

After full consideration of the principle involved and its wide application to Crown and Company lands in the western provinces and elsewhere, I am of the opinion that farm lands everywhere, actually occupied or to be occupied, carry with them the right of free passage (saving natural obstacles) from any one part of a lot to any other part of the same lot, which lot is or is to be occupied and worked as a farm; and that when a railway company or other corporation, for its own purposes and advantages, infringes upon this natural and fundamental right, it should do so with the clear understanding that it will, when constructing its line or at some later date, be compelled to provide and thereafter maintain, at its own expense, at least one adequate and satisfactory farm crossing on every lot or farm which it crosses.

Therefore, I concur in the judgment of the Deputy Chief Commissioner, that the Michigan Central Railway Company, as the successor of the Canada Southern Railway Company, should provide and maintain, at its own expense, an adequate and satisfactory farm crossing, at a point to be agreed upon, on the farm of Jacob Wright, known as lot 29, con. 5, in the township of Enniskillen, county of Lambton, Ont.

February 15, 1907.

Re *Complaint of the Dominion Concrete Company, Limited.*

This company applied for an investigation by the Board into the matter of the Canadian Pacific Railway Company's rate of 12 cents per hundred pounds on concrete blocks from Kemptville, Ont., to Graham station, a distance of 107 miles, as against a rate of 6½ cents per hundred pounds on brick, and alleging an unjust discrimination in favour of the latter commodity and against the former.

This matter was taken up by the chief traffic officer of the Board, and after considerable correspondence with the railway company the rate on concrete was reduced and made satisfactory to the complainants. After the lower rate had gone into effect complainants claimed to be entitled to a refund of the difference between the higher and the reduced rate. The railway company refused to recognize any such claim and complainants claimed to be entitled to a refund of the difference between the higher and the reduced rate. The railway company refused to recognize any such claim and the complainants applied to the board for an order directing a refund.

Judgment, Chief Commissioner, March 5, 1907.

Under the Railway Act a railway company is required to obtain approval of what are called standard tariffs, specifying the maximum mileage rates at which the company is authorized to charge, and upon approval of such tariffs, the company is authorized to charge the rates set out therein, unless it files special tariffs giving lower rates than those in the standard tariff; and section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs—are the only tolls which the company is authorized to charge for the carriage of goods; and, by section 401 of the Railway Act, 'any person or company, or any officer or agent of any company, (*a*) who shall offer, grant or give or shall solicit, accept, or receive any rebate, concession, or discrimination in respect of tht transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs

then in force . . . shall for each offence be liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars.' The authority of the Board to deal with tolls and tariffs, as set out in section 323 of the Railway Act, is as follows: 'The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

'2. The Board may designate the date at which any tariff shall come into force.'

Held, that this does not empowed the board to make a retroactive alteration in a tariff which is not contrary to any of the provisions of the Railway Act, so as to apply the alteration to past transactions; and that the railway company is not entitled to make rebates from tolls which have been charged in accordance with the tariffs lawfully existing when the transaction took place.

Held, further, that the Board has no authority to direct the Canadian Pacific Railway Company to refund any portion of the tolls charged by it under the tariffs existing before March 20, 1906.

A later application was made by complainants against this ruling of the board,

A later application was made by complainants against this ruling of the Board, tariff should come into force, this could be done so as to give the same a retroactive effect.

and it was argued that as the Board had power to designate the date at which any

Held, Chief Commissioner, March 20, 1907, that the power of the Board to designate the date at which a tariff shall come into force does not enable the Board to give such tariffs a retroactive effect, and to make them applicable to prior shipments.

Discrimination.

Railway companies have no right to discriminate in regard to passenger rates as between passengers arriving at Canadian ports by different steamers. By section 315 of the Railway Act tolls are required, under substantially similar circumstances and conditions, to be charged equally to all persons and at the same rate in respect of all traffic of the same description, and carried in or upon the like kind of cars, passing over the same portion of the line of railway; and that no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any person or company travelling upon or using the railway.

Chief Commissioner, March 7, 1907.

(Immigrant Passenger Tariffs.)

Re *Complaint Brown Brothers Company* v. *Canadian Northern Railway Company.*

The complainants alleged that on May 2, 1906, they delivered to the Canadian Northern Railway Company at Warman, Alberta, two boxes of nursery stock, consigned to L. H. Daly, of Vegreville, Alberta, and that the shipment proved a total loss to them, occasioned by the neglect or refusal of the railway company to carry and deliver the traffic without delay.

It appeared from the answer filed on behalf of the railway company to this complaint that a period of fifteen days had elapsed from the time of receipt at Warman Junction until their arrival at Vegreville, a distance of 262 miles, and the railway company was advised that the Board felt that, under the circumstances, it should take into consideration the Brown Brothers Company's claim for damages, and that such steps should be taken as would prevent the recurrence of such delays.

Held, Chief Commissioner, March 12, 1907, that, under the Railway Act, the Board has now power to award compensation to parties for delays in forwarding traffic, as the Act expressly provides that the remedy is to be had by action in the ordinary courts; that the function of the Board is to require the furnishing of accommodation

and the forwarding of traffic without delay, while the circumstances admit of the Board interfering; but that, in case of a transaction which is closed, the Board can only deal with it as showing the necessity for action to prevent such delays in the future.

Re *Complaint of Canadian Canners, Limited.*

This was a complaint by the Canadian Canners, Limited, that the Canadian Pacific Railway Company charged a rate of 33 cents per 100 lbs. on a carload of canned goods shipped from Wellington, Ontario, to Sturgeon Falls, Ontario; or 4 cents per 100 lbs. more than the combination of the local rates from Wellington to North Bay and from North Bay to Sturgeon Falls.

Upon the application of the complainants, the railway company refused to refund the difference between the published rate of 33 cents and the combination of local rates, on the ground that it would be illegal to protect other than the published tariff rate, namely, 33 cents per 100 lbs.

The application to the Board is for authority to make the refund.

Judgment, Chief Commissioner, March 12, 1907.

Held, that, not only would the railway company be justified in refunding the difference between the 5th class rate from the point of shipment to Sturgeon Falls and the sum of the commodity rate to North Bay, and the fifth-class rate from North Bay to Sturgeon Falls, but that it ought to do so. The later two rates are those of lawfully published tariffs; and a shipper has the right to the carriage of his traffic at the commodity rate to North Bay, and at the tariff rate from North Bay to Sturgeon Falls, although he consigns his shipment direct to Sturgeon Falls without mentioning the intermediate point.

It may happen that ignorant shippers will not be given this privilege, while those better informed will obtain it; but the informed shipper should not, on that ground, be refused the lower rate.

Re *Somerset Bridge, Ottawa.*

The city of Ottawa applied to the Board for an order under sections 186 and 187 of the Railway Act, 1903, directing the Ottawa Electric Railway Company, the Grand Trunk Railway Company of Canada, and the Canadian Pacific Railway Company to submit a plan and profile for the purpose of widening the bridges and approaches thereto constructed by them at Somerset street, a public highway in the city of Ottawa.

The bridge in question spans the tracks of the Canada Atlantic Railway and the Canadian Pacific Railway at the western boundary of the city. The eastern approach and bridge proper lie within the city of Ottawa, the western approach within the village of Hintonburg. The Ottawa Electric Company, which is subject to the legislative authority of the parliament of Canada, owns and operates a street railway system in the city of Ottawa and its suburbs. The portion within the city was constructed and is operated under an agreement between the city and the company authorizing the company to exercise its franchise for the period of thirty years from August 13, 1893. By a later agreement between the electric company and the city, the city consented to the construction, maintenance and operation by the electric company of its railway upon and along Cedar street and other streets in the city, and by this agreement it was provided that nothing contained therein, or in the original agreement between the city and the company, or in the by-law of the City Council ratifying these agreements, should be 'construed to impose any liability on the corporation for the construction, repair, or maintenance of bridges on Cedar street, crossing Canada Atlantic Railway lines and the Canadian Pacific Railway lines, or any bridge or bridges that may be constructed in place of the same; or should be 'construed as an assuming by the corporation of the said bridge or either of them.'

The street referred to as Cedar street is the one now known as Somerset street, on which the bridge in question is situated.

By agreement between the Electric Railway Company, the Canadian Pacific Railway Company, and the Canada Atlantic Railway Company, for certain considerations therein named, the Electric Company agreed from time to time and at all times thereafter, to 'indemnify and save harmless the railway company from and against all liability to maintain, alter, repair, or reconstruct the said bridge or the approaches thereto, and also from and against all claims for damages of every kind or nature whatsoever, or for any penalty imposed upon the said bridge or crossing, or the approaches thereto'; and further agreed that, if it should at any time become necessary to reconstruct the then existing bridge or to alter the same, plans of the said alteration or of the new bridge to be constructed should first be submitted to and approved by the railway company.

The substantial question for consideration was as to the body which should bear the cost of the alteration. The city, through its counsel, offered to bear one-fourth of the expense. The railway companies contended that, in view of their agreement with the Electric Company, and of the fact that the necessity for the widening of the bridge arises wholly from its use by the Electric Company, that company should bear the remaining portion of the expense.

Judgment, Chief Commissioner, March 13, 1907.

Held, that, as between the Electric Company and the two railway companies, the contention of the railway companies was correct, and that, as between the Electric Company and the city, the Electric Company should widen the bridge by sixteen feet according to the plans to be approved by the Board, and that the city should pay the Electric Company one-fourth the expense involved in the addition.

Passenger Rates.

By order of the Board, dated Marcr 18, 1907, the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company were directed to reduce the passenger rates for their lines east of and including the Calgary and Edmonton Railway, to three cents per mile.

Re *the E. B. Eddy Company's Complaint.*

This company has asked the Board to give the Grand Trunk Railway permission to reduce its charges on certain traffic carried at the rate of 10 cents per 100 lbs. under the tariff in force at the time, to 8 cents per 100 lbs. subsequently substituted.

Section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs are the only tolls which the company is authorized to charge for the carriage of goods. Section 401 imposes a penalty on any person or company, or any officer or agent of a company offering, granting, giving, soliciting, accepting or receiving any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs then in force; and section 402 makes it an offence in a company to depart from the tolls in a tariff then lawfully in force.

Judgment, March 18, 1907.

Held, that the Act gave the Board no power to permit a departure from the lawfully existing tariffs in respect of past transactions, or to legalize rebates from the previously earned tolls specified in such tariff; and on this ground, the Board

should not attempt to interfere. 'In the present instance an attempt to exceed the Board's power seems to be particularly objectionable, because the Board would not be able to secure to others in a similar position the rebates which the Eddy Company desires, but by becoming a party to the rebate, it would facilitate an undue preference in favour of one shipper.'

Judgment in dissent, Mr. Commissioner Mills.

On October 16 and 17, the E. B. Eddy Company thought of shipping pulp for the manufacture of paper from Danville, Que., to Ottawa, Ont., and called the attention of Mr. Bremner, who represented the Grand Trunk in Ottawa, to the fact that the 10 cent rate quoted on pulp from Danville to Ottawa was prohibitive, and that they could not ship pulp from Danville to Ottawa at a higher rate than 8 cents per 100 lbs.

After considering the question, Mr. Bremner, on behalf of the Grand Trunk, advised the E. B. Eddy Company that the Grand Trunk would give the said company a rate of 8 cents per 100 lbs. from Danville to Ottawa. The Eddy Company accepted the 8-cent rate and notified Mr. Bremner that some cars were then being loaded; and Mr. Bremner says that the Eddy Company was then notified that the 8-cent rate would not apply on cars shipped prior to the date on which the tariff became effective. The correctness of this latter statement, the Eddy Company does not admit, but alleges that in good faith, without any doubt that the 8-cent rate would apply, it shipped five cars of pulp between the time that the 8-cent rate was announced and he publication of the tariff to that effect.

Subsequently the Grand Trunk Company rendered a bill for $153.68, being an extra charge of two cents per 100 lbs. on six cars pulp shipped between the time of the announcement of the 8-cent rate and the publication of the tariff, 9 days later.

In reference to this account, the E. B. Eddy Company sets forth the following declarations and statements of opinion:—

It declares that it shipped five of the six cars in good faith after the reduction was announced, and had no doubt that the rate was to be 8 cents per 100 lbs.

It expresses the opinion that nine days was altogether too long a time to take in issuing the tariff, and directs attention to the statement of the chief traffic officer that the said tariff could have been issued much sooner, if it had been done in the way which is usual when it is known that cars are loaded or being loaded and waiting for shipment.

It calls attention to the fact that the application of the 8-cent rate from the date of the announcement would not involve a discrimination against any one.

And it further alleges that the Grand Trunk is willing to withdraw or cancel this account for extra charges over and above the 8-cent rate, if the Railway Commission will allow it to do so.

I think the intention of parliament, as expressed in section 401 of the Railway Act, was to prevent all kinds of *discrimination*—not to compel a railway company to continue charging an admittedly unreasonable or prohibitive rate until such time as it can conveniently prepare and issue a new tariff, when the said company is willing to make a reduction in such reasonable or prohibitive rate as soon as its attention is called to the matter (before a change in the tariff is made)—provided such reduction is made with the knowledge of the Railway Commission and manifestly *without discrimination* against any one.

Such a reduction, under such circumstances and conditions, the Grand Trunk Railway Company announced its willingness to make in the published tariff rate on pulp from Danville, Que., to Ottawa, Ont.; and under such circumstances, I think the Board should allow the said railway company, without injury or discrimination against any one, to apply its 8-cent reduced ratef rom the time when it announced its intention to make the reduction from 10 to 8 cents per 100 lbs.

March 8, 1907.

SESSIONAL PAPER No. 20c

Re *Application of the Toronto, Hamilton and Buffalo Railway Company, under section 175 of the Railway Act, 1903, for leave to construct a branch from its main line in the city of Hamilton to the works of the Canadian Westinghouse Company.*

The projected line would cross Sherman avenue south of Princess street and run thence, approximately, parallel to and about 125 feet south of, that street, and parallel to, and some 350 feet south of, the line of the Grand Trunk Railway Company crossing at grade, between certain points, the line of the Hamilton Radial Electric Railway Company and curving northerly, about Fullerton avenue, a short distance from the Westinghouse Company's works.

Objection was made to this line by the residents of the locality west of Sherman avenue and between the proposed line and that of the Grand Trunk Railway Company, on the ground that it would be very injurious to them that their properties should be inclosed within a strip bounded by two lines railway; and the Radial Company objected to a crossing of its line at grade. The Grand Trunk Railway Company also objected to the use of any portion of its right of way for the proposed branch.

Judgment, Chief Commissioner, March 28, 1907.

I am of opinion that it would not be reasonable to compel the Grand Trunk Railway Company to allow such a use of its land at that point.

I am also of opinion that it would not be proper to allow the construction of the branch beyond Sherman avenue south of Princess street. This would leave a strip of property about fifteen hundred feet long by three hundred and fifty feet in width between two lines of railway. At the present time the property between Sherman avenue and the Westinghouse Company's property is wholly residential, and even though the proposed branch were simply to be used as a spur line for access to the Westinghouse Company's works, it would be highly injurious to the residents of such a strip. It may be that circumstances will lead to the strip becoming eventually a manufacturing locality; but, unless it is sufficiently important, the residents should not be forced to this result.

On behalf of the city of Hamilton, objection is made to the proposed lowering of the Radial railway, as this would involve the lowering of Princess street below a large existing sewer, and in such a manner as would injure Princess street for public travel.

While one or more industries are to be served east of Sherman avenue, the extension beyond that is for the purpose of giving access to the Westinghouse Company's works only. If that company did not object, it would be possible to carry the line along that of the Grand Trunk Railway directly into the Westinghouse Company's premises. Doubtless it will be of great value to that company to have the additional railway connection and service, but it has already connection with the line of the Grand Trunk Railway, by means of which traffic can be transferred to and from the line of the Toronto, Hamilton and Buffalo Railway.

No public interests are involved, and it does not appear to me that the residents of the locality should be compelled to submit to the injury that would be done their property or that the Radial Company should have its line crossed at grade in order to enable the Westinghouse Company, which desires the railway communication, to procure it without injury to its own buildings or premises.

Held, Commissioner Mills dissenting, that the application for leave to construct the spur line on the route proposed should be refused, but that authority should be granted, if the applicant company desired, to construct a branch line with the diversion northwesterly over Sherman avenue to the south of the Grand Trunk Railway Company's right of way, and thence parallel thereto over the radial railway to Rosedale avenue, and to take it directly to the Westinghouse Company's premises, or have it connected with the Grand Trunk Railway tracks, as might be arranged, or that leave should be given for the construction of any portion of the line which might be desired.

Re *Cedar Dale-Oshawa Crossing.*

This was an application by the Police Village of Cedar Dale for an order directing the Grand Trunk Railway Company of Canda to provide better protection where its railway crosses Simcoe street, in the said village.

There was at the same point an electric railway crossing the Grand Trunk Railway, with interlocking appliances operated by the electric company, and the Board, by its order of December 19, 1906, directed that the gates be interlocked with those appliances and be operated by the signalman stationed in the tower, and that the Grand Trunk Railway Company should bear the expense incident thereto over and above the expense to which the electric company was subject. The Board also directed that an electric light should be provided and maintained by the village at the crossing.

Simcoe street, over which the Grand Trunk Railway crosses, is a continuation of a street of the town of Oshawa, but the point of crossing is outside the limits of the town. Counsel for the town supported the application for the order, and took part in the examination of witnesses. Among other things, he said: 'This corporation is interested in having the lives of the citizens protected—their lives and property—and would urge upon the commissioners as strongly as possible the propriety of providing such protection as may be thought proper.' And after reference to the probable expense of a subway, he said: 'But all the other protection that could be afforded would be urged by this corporation.' Further he said: 'The town council do not see that they should be called upon to contribute. They contribute an immense amount of business to the railway.'

In announcing to the parties its conclusions, the Board expressed doubt whether the town could be considered interested so as to be liable to be made a contributory to the cost of protection of the crossing, and intimated that, if the railway company should be of opinion that the town was so liable, the Board would like to be furnished with references to any statutory provisions imposing on the town or bestowing on it any rights with respect to a highway outside the boundaries of the town; and it also stated that it considered that the village of Cedar Dale was not in such financial position that it should be asked to contribute, except by providing and mainaining a light at the crossing.

The Grand Trunk Railway Company then applied to have the order varied so as to apportion the cost of the installation, operation and maintenance of the gates equally among the town of Oshawa, the village of Cedar Dale and the railway company, claiming that the town was interested in the matter and should be compelled to contribute, and that the weak financial position of the village was no sufficient ground for exempting it.

This latter application was heard before the Board. In support of the claim of interest on the part of the town, reference was made to the position taken by the counsel for the town at the previous hearing, and to the case of the Grand Trunk Railway Company v. City of Kingston, 8 Ex. C. R. In that case an application was made to have certain orders of the Railway Company of the Privy Council made rules of the Exchequer Court. By these orders, the city of Kingston was directed to contribute to the expense incident to the construction of a subway for carrying a highway under the Grand Trunk Railway outside of the city limits; and objection was made to the authority of the Railway Committee to impose this condition. The learned judge of the Exchequer Court was of opinion that he had no authority to review the decision of the Railway Committee upon the merits, or its methods of procedure. He said: 'Was the city of Kingston interested in the works that were directed to be done?' If that question is answered in the affirmative, the Railway Committee had jurisdiction to make the orders as amended. If it is answered in the negative, then the committee had no jurisdiction to impose upon the city of Kingston the obligation to bear any part of the cost of such works. I think the question should be answered in the affirmative. Although the works directed to be carried out are not within the limits of the city of Kingston, they are in close proximity thereto, and are

intended to protect the public from danger of crossing the Grand Trunk Railway by a level crossing on a road that, within a short distance from the crossing, connects with one of the city streets. In addition to this, it appears that the city of Kingston was one of the movers in the application to the Railway Committee for an order to have the works in question undertaken; and it seems to me that one could not now with fairness say that the city of Kingston was ont interested therein.'

In *re* Canadian Pacific Railway Company and county and township of York, 27 O.R. 559; 25 O.A.R. 65, Mr. Justice Rose upheld the validity of an order of the Railway Committee under which the city of Toronto, the county of York, and the township of York were directed to contribute to the cost of installing and maintaining gates and a watchman for the protection of a highway crossing which was in the township of York and outside the limits of the city of Toronto. The order of the Railway Committee had been made upon the application of the city of Toronto. The county and township of York appealed from the judgment. Burton, C.J.O., and Maclennan, J., were of opinion that the order was invalid in so far as it imposed a burden upon the township and county. Osler, J., held that the township and county were 'persons interested' within the meaning of the Railway Act, and subject to the jurisdiction of the committee. Meredith, J., held that, as the road was not a county road, and the county was under no responsibility for its maintenance, it could not be considered to be interested so as to be liable to the order of the committee.

The city of Toronto did not appeal, and it does not appear to have been represented before the Court of Appeal. As the original applicant for the order, it could hardly be said that it was not interested.

Chief Commissioner:

In the two cases referred to, the courts were called upon to enforce orders made by the Railway Committee. They could not review the decisions of the committee upon the facts. If there was before the committee any evidence that the parties ordered to contribute were 'interested' within the meaning of the statute, the jurisdiction of the committee to make the orders could not be disputed.

In the present case this Board is the court of original jurisdiction which has to decide for itself, not merely the question of law, but also the question of fact, as regards interest, and further, whether, in the exercise of its discretion, it considers that the town should justly and properly be made to contribute to the cost of protecting the crossing in question.

I think that it cannot properly be said that, as a matter of law, there is not some evidence of interest on the part of the town which would support an order of the Board against it, particularly in view of the direct claim of interest on the part of counsel representing the town. But it does not appear to me that the town is necessarily bound by the admission of some interest, having in view the circumstances and the nature of the interest admitted. The town corporation is a statutory body. It has no duty to maintain highways outside of the town limits, or to preserve them from obstruction. It is not authorized to expend the moneys of the town upon such highways. As a public body, having in view the interests of the citizens, a town council often interests itself in many matters of public importance not directly coming within its functions. Naturally the safety of citizens of the town travelling along the highway and over the crossing in question is looked upon by the council as of public interest; but it does not appear to me that, on that account, the municipal corporation can be said to have any legal interest in the matter of protecting the crossing. The individual interests of citizens having occasion to use the highway are not, in my opinion, ascribable to the corporation, and the admission of the counsel for the town, and the part which he took in supporting the application, do not appear to me to carry the matter farther or to constitute such an admission or evidence of interest as to warrant the Board in finding as a matter of fact that there was such interest.

I think, therefore, that the town should not be ordered to contribute to the expense of erecting, maintaining, or operating the gates.

As regards the village of Cedar Dale, the matter stands in no different position from that presented at the original hearing. I do not think that the Board should be called upon in such a case to revise its previous decision, where no new facts have been presented and no material point was previously overlooked. In making the order the Board expressed its doubt upon the question of making the town a contributory. That question was fairly open for reconsideration.

In my opinion the application should be dismissed, and the railway company should be ordered to pay to the village a reasonable sum for costs of the opplication to vary the order. In view, however, of the state of the previous decisions and of the position taken upon the hearing by the town, I do not think that the railway company should be made to bear any portion of the costs of the town.

Order dated May 23, 1907, issued accordingly. Costs of the application fixed at the sum of $25.

Re *St. John Ice Company Complaint.*

This was a complaint by the St. John Ice Company alleging that the New Brunswisk Southern Railway Company were acting illegally and in violation of the provisions of the Railway Act by

1. Billing cars at 20,000 lbs. which contained 40,000 to 50,000 lbs. actual weight.

2. Billing cars at 2 cents per 100 lbs. contrary to C.R.C. No. 1, their standard tariff, which names 2½ cents per 100 lbs.

3. Billing cars at 20,000 lbs. contrary to the Canadian freight classification, which specifies 30,000 lbs. as minimum carload weight.

4. That through W. E. Scully, their agent at West St. John, passing and billing as 20,000 lbs. cars which W. E. Scully as 'The Union Ice Company' had sold and delivered as 50,000 lbs.

5. Misrepresenting the existing tariff charges in the following way: In December last past their general freight agent, Mr. P. W. Wetmore, quoted as their current rate on ice from Spruce Lake to West St. John 2 cents per 100 lbs., minimum carload weight 30,000 lbs., when he must have known that tariff C.R.C. No. 2, giving a rate of 2 cents per 100 lbs. had been cancelled and that 2½ cents per 100 lbs. was the legal rate, as per C. R. C. No. 1.

6. Through the collusive action of its officials violating the established tariffs, inasmuch as P. W. Wetmore, the accountant, who was also general freight agent, passed entries and way-bills, certified by him and F. J. McPeake, the superintendent, to the auditor, showing carload weights 20,000 lbs. when actually they were from 40,000 to 50,000 lbs., showing a total freight per car of $4 had been collected when it should have been from $10 to $12.50 per car.

And applied, under section 60 of the Act, for an order for inquiry into the management of the said railway company, and for investigation of the complaints hereinbefore recited against the company and its officials.

Hearing at St. John.

Ordered, that leave be granted the complainant company to institute proceedings, under sections 399, 401 or 402, of the Railway Act, against the company for suffering or permitting,

(*a*) W. E. Scully to obtain transportation for goods at less than the required toll then authorized and in force on the railway of the company.

(*b*) For transporting goods for the said W. E. Scully; and for suffering and permitting W. E. Scully to obtain transportation for such goods at less than the regular tolls then authorized and in force on the railway in violation of the provisions of the Railway Act.

Later, application was made, on behalf of the complainants, for a certified copy of this order, in order that the same might be made a rule of the Supreme Court under section 46 of the Railway Act.

Section 46 provides that any decision or order made by the Board may be made a rule, order or decree of the Exchequer Court, or of any Superior Court, in any province of Canada.

Subsection 2 of that section reads:—

'2. To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or in lieu thereof, the secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the board:

'To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or as the case may be).'

Application refused.

Held, Chief Commissioner, that, in the first instance, the usual practice and procedure of the court in such matters should be followed; that the other alternative provided under this section is intended rather for a case where the Boaard is itself seeking to enforce one of its own orders, that is to say, an order where the Board has taken the initiative.

Vancouver Eastbound v. *Winnipeg Westbound Rates.*

The boards of trade of British Columbia Pacific coast cities complained to the Board that the rates levied by the Canadian Pacific Railway Company on all classes of goods, from Vancouver to points located in British Columbia and the Northwest Territories, as far east as Calgary, on the main line, and Macleod, on the Crow's Nest line, were discriminatory as against them as compared with the rates on westbound traffic from Winnipeg to the same territory.

The complaint was not based on the ground that the rates were, in themselves, so excessive as to be unreasonable or unjust, but merely on the ground that undue preference was given to traffic from Winnipeg westward, as compared with that from the coast cities eastward.

Most of the traffic carried westward from Winnipeg is carried under what are known as 'traders' tariffs,' marked as, 'to be used on reshipment by Winnipeg wholesale houses only to traders doing business at or tributary to stations specified' in the tariffs. A question was raised as to the extent to which those tariffs were used, and the railway company contended that comparison could not be made with them, as the rates were only the balances of through rates from points east of Winnipeg to the western points in question, after deducting the regular tariff rates to Winnipeg.

Hearings at Ottawa, March 6, 7 and 8, 1906.

Judgment of Chief Commissioner Killam, May 25, 1907, concurred in by Deputy Chief Commissioner Bernier.

'It appears to me,' referring to the contention of the railway company mentioned above, 'that these questions are quite immaterial. If, by so basing the rates, an unjust preference is given to Winnipeg as against the Pacific points, it is equally as objectionable as if the rates were computed on any other basis, and the comparison should be made with traffic carried for similar parties and under similar conditions, and on other traffic the tariffs applicable thereto are those between which comparison should be made.

The complainants rely mainly on a comparison of the respective distances from Winnipeg and Vancouver, claiming that the levying of higher rates for shorter distances raises a presumption of unjust discrimination. They rely also upon a comparison of the practice upon lines in the United States, claiming that the westbound rates from St. Paul are equalized with the eastbound rates from Seattle and Portland at points much farther east than are the rates from Winnipeg with those from Vancouver on the Canadian Pacific Railway.

It appears to me that no inference can be drawn from a mere comparison of distances upon different portions of railways, and that it does not constitute discrimina-

tion—much less unjust discrimination—for a railway company to charge higher rates for shorter distances over a line having small business or expensive in construction, maintenance or operation, than over a line having large business or comparatively inexpensive in construction, maintenance and operation.

In my opinion, a party raising such a complaint upon a mere comparison of distances should show the nature of the particular lines referred to and that there is a material disproportion of rates as against the shorter line after due allowance is made for the circumstances just mentioned.

At the hearing, the complainants offered no evidence upon these points; but the railway company gave some evidence showing that the cost of maintenance and operation were much greater, and the traffic lighter, upon the western portion of the line, than upon the portion from Winnipeg westward. While this showed that some difference in rates as compared with distances was reasonable, the information given was not sufficient to form an accurate judgment as to whether, after making due allowance for difference of traffic and expense, the western rates were unduly high as compared with the others.

As the matter was of considerable public importance, the Board did not feel warranted in dismissing the complaint on the mere ground that no sufficient proof of discrimination had been given, but directed its chief traffic officer to make further inquiries and afford it all the information possible for the purpose of enabling it to arrive at a correct conclusion. This inquiry has been made, with the result that the figures given by the railway officials have been found to have been, in the main, correct, and that some further information has been procured.

Members of the Board are aware, from personal investiiation of the route, that grades are much heavier and the line much more difficult of operation in British Columbia than in the prairie provinces, and this view has been clearly established by the evidence.

The original report of the chief traffic officer showed that, by computations based upon the evidence as to the cost of operation and maintenance upon different sections of the main line of the railway, the rates from Vancouver to Calgary were really lower, as compared with those from Winnipeg to Calgary, than if they were based upon the proportionate expense. No accurate data were furnished by the evidence, or by the subsequent reports of the chief traffic officer, for comparison of the expense of operation and maintenance on what is known as the Crow's Nest route, with that for the prairie lines, though the chief traffic officer reported that the Crow's Nest line was much the more expensive to operate. He, however, made some further calculations based on a comparison of grades and the assignment, as a result thereof, to portions of the lines in British Columbia of a constructive mileage at the rate of one and a half miles from Yale to Revelstoke, and two miles from Revelstoke to Canmore, for each actual mile of railway. This estimate was taken from a statement in a letter of Mr. MacInnes, freight traffic manager of the Canadian Pacific Railway Company, that a certain tariff of the company was based upon such constructive mileage. This calculation showed that, using the constructive mileage thus estimated, the rates from Winnipeg westward were less per mile than those from Vancouver eastward. It appears to me that the results of such estimates afford no reliable basis for concluding that the Vancouver eastbound rates are discriminatory as compared with the Winnipeg westbound rates. The estimates are very loose, and are not based upon any definite calculations. Those based upon actual figures as to comparative expense of operation and maintenance are much more reliable, even though, in some respects, details are not fully given. Although the company may in the past, for some purposes, have made use of such estimates, this should not be taken as establishing that the estimates were sufficiently accurate for the purposes of the complaint now in question. It is clear that an absolutely accurate comparison cannot be made, and the evidence does not appear to me sufficiently strong to warrant the conclusion that the eastbound rates are unduly high as compared with the westbound ones.

The report of the traffic officer further shows that the rates from Vancouver eastward are lower than those in the United States lines, and this although the portions of the United States served by these lines are much more productive and thickly settled, and afford greater local traffic than British Columbia; and, also, that the points at which the eastbound and westbound rates meet in the United States are considerably nearer Seattle than is claimed by the complainants; and that, comparing the proportionate distances from Winnipeg and Vancouver respectively with those from St. Paul and Seattle respectively, the average points of meeting of the rates on the Canadian Pacific Railway are as fairly situated as the points on the lines in the United States.

So far as the traffic over the Crow's Nest line is concerned, it would be much more satisfactory if more definite information as to the cost of operation had been procured; but, taking into consideration the respective rates over that line and over the main line *via* Calgary to Macleod, and the results of the other inquiries, it does not seem to me sufficiently probable that further inquiry would establish the unfairness of the rates to warrant us in making such inquiry. It must also be remembered that the traffic on the prairie sections of the Canadian Pacific Railway is very much greater than that upon the lines in British Columbia; that the earnings per mile of the company for the prairie lines are very much greater than in British Columbia, and that the company may reasonably be expected to carry the traffic on the prairie lines at lower rates than upon the other lines. At any rate, if it sees fit to do so to a reasonable extent, it cannot well be claimed that this course involves unjust discrimination as against the traffic in and through British Columbia.

There are two minor points which require consideration. One arises under special commodity tariffs for westbound traffic from Winnipeg upon the classes of articles named in the statute 60-61 V., c. 5, s . 1. (*d*), intituled 'An Act to authorize a subsidy for a railway through the Crow's Nest Pass.' That Act authorized the granting to the Canadian Pacific Railway Company of a subsidy towards the construction of a railway from Lethbridge, through the Crow's Nest Pass, to Nelson, upon certain conditions, one of which was that an agreement should be made between the government and the company by which, among other things, a reduction was to be made in the general rates and tolls of the company upon the classes of merchandise therein mentioned westbound from and including Fort William and all points west of Fort William on the company's main line, or on any line of railway throughout Canada owned or leased by or operated on account of the company.

As a result of this Act and the agreement made under it, the company made tariffs of reduced rates upon the classes of merchandise referred to, not only from Fort William and points east thereof westward, but also from Winnipeg westward, without similarly reducing rates on the same classes of merchandise from Pacific points eastward. These reductions cannot be considered as having been forced upon the company, but were the result of an agreement which it chose to enter into for the purpose of obtaining a subsidy in aid of the construction of a line of railway. The agreement and the statute did not even deal with rates from Winnipeg at all. When the statute was passed, and when the agreement was made, the law prohibited unjust discrimination between localities; and while parliament did not stipulate for similar reductions over western portions of the company's railway, it should not, in my opinion, be considered as having authorized what would, if done otherwise, have produced unjust discrimination. I think that we are justified in inferring that, in respect of the classes of merchandise to which these tariffs relate, the reductions did result in such discrimination, and that the rates from Vancouver eastward, upon similar traffic carried under similar circumstances, should be proportionately reduced.

The remaining point arises out of the facts that, in order to meet water competition on the Pacific coast, the railway company carries goods from eastern points to the Pacific coast at lower rates than to interior western points, and that the same practice prevails with reference to the rates from Winnipeg westward; and that, at

many interior points, the rates from Winnipeg are less than the combined rates from Winnipeg to points of the coast, and from the latter points to the interior ones. The low rates to the coast are made necessary in order to enable the railway companies to obtain traffic in competition with ocean carriers. Such a practice is distinctly authorized by the Railway Act, and, unless the higher rates from eastern points to interior western points are, in themselves, unjust or unreasonable, this practice does not involve unjust discrimination. Necessarily the situation must have a modifying effect upon the rates to the interior points, which must vary with the distances from the Pacific ports. *Prima facie* the railway company should be entitled to charge reasonable rates from the Pacific ports eastward, and it should not be obliged to charge, and would not even be warranted in charging, excessive rates to the interior points for the purpose of equalizing the position of the Pacific coast points. It does not appear to me that the mere fact that the westbound rates from Winnipeg or any other point to such interior western point are less than the rates which would be made up by a combination of the rates from such eastern points to Pacific points, and from the latter to the interior point, in itself constitutes unjust discrimination or undue preference. The railway company is allowed to meet competition at coast points, and I think it should equally be allowed to meet the effect of that competition upon interior points to a reasonable extent.

I am of opinion that the complaint should be dismissed, except in so far as relates to the classes of traffic for which reduced rates were given under the Act relating to the Crow's Nest line.'

Judgment in dissent, Mr. Commissioner Mills.

'I regret my inability to concur in the judgment of the Chief Commissioner in this case.

'I do not attach so much importance as the Chief Commissioner seems to attach to certain portions of the evidence—evidence into which the element of interest enters largely and regarding the value of which there is clear ground for difference of opinion; and I differ wholly from the opinion expressed as to the bearing of what is called the "constructive mileage" evidence; it has, I would venture to say, a manifestly direct bearing, and is in my opinion the best possible evidence as to the relative cost of the operation and maintenance of the two sections of the railway, the mountain section and the prairie section—because it is an expression of the deliberate opinion of the railway company, with the facts in its possession, at a time when there was no dispute and no issue to be settled; according to which opinion, each mile of the road between Yale and Revelstoke cost as much to operate and maintain as one and one-half miles of the prairie section. The rates were adjusted on this basis and no complaint was made by any section of the country.

At a later date, the rates on the prairie section were reduced, without any corresponding reduction on the British Columbia (including the mountain) section; the balance was thus disturbed, and has remained so, although no evidence was given at the hearing or since to prove that the traffic on the said British Columbia section had then become or now is *relatively* any less than it was when the "constructive mileage" basis was established; and for this reason, as I understand it, the chief traffic officer of the Board used the "constructive milage" of the company in one of his calculations.

'Further, the chief traffic officer, whose technical knowledge and experience specially fit him for dealing with such questions, investigated the points at issue, in all their bearings, at great length, and with the utmost care; he read and weighed the evidence pro and con; he considered the objecitons urged by the representatives of the railway company against the statements and recommendations made in his report of the 17th December, 1906, and he came to the conclusion that there has been and is discrimination against the Pacific coast cities as compared with Winnipeg.

'Therefore, without stating my reasons at greater length or further enumerating the portions of the Chief Commissioner's argument and conclusions from which I have

to dissent, I would say that I approve of the recommendations of the chief traffic officer, as follows:—

'(*a*) That the rates between Vancouver and Calgary should be reduced so as to preserve the same relative proportion between these and those between Winnipeg and Calgary as existed before the latter were reduced some years ago; in other words, that the prairie rates should apply between main line points in British Columbia, counting one mile between Yale and Revelstoke as equivalent to one and a half prairie miles, and one mile between Revelstoke and Canmore as equivalent to two prairie miles—equalizing the Vancouver eastbound and the Winnipeg westbound rates at a point 67 miles west of Calgary.

'(*b*) That the rates between Revelstoke and Macleod *via* Nelson should be similarly reduced, counting each mile between Yale and Crow's Nest as one and a half prairie miles instead of two miles, as at present.

'(*c*) That from Vancouver to Calgary and Macleod and intermediate points commodity rates should be given on the same articles as have commodity rates from Winnipeg under the so-called 'Crow's Nest Pass agreement;" these rates to be calculated in the same manner as the class rates, as in sections (*a*) and (*b*) equalizing the Crow's Nest reduced rates from Vancouver westbound and the rates from Winnipeg westbound at Wardner, 146 miles west of Macleod.'

Application Canadian Pacific Railway Company for permission to make refund to Messrs. George Moore & Co., of Waterloo, from the local freight charges to Galt, on eggs subsequently reshipped.

The eggs in question were shipped to Galt from the Canadian Pacific Railway Company's stations at Eden, Straffordville and Tilsonburg, in less than carload lots, aggregating 51,820 pounds, on which the company's local rates to Galt were paid. There was in effect at the time a special tariff which provided that eggs shipped from the company's own stations in lots of not less than 500 pounds, to certain specified cold storage points, would, on reshipment, be entitled to an allowance of one-third from the inward charges to the cold storage point. In the specified cold storage points of the Canadian Pacific Railway Company's original tariff, Galt and Waterloo, Ont., were not included, but were omitted, as the representative of the company says, by mistake, and as a result Messrs. Moore & Co. did not derive the benefits of the stop-over arrangements that were granted the points shown in the tariff, the effect of which was, as alleged, to unjustly discriminate against Moore & Co.

Judgment, Chief Commissioner Killam, November 13, 1907, concurred in by the Deputy Chief Commissioner Bernier, was to the effect that the rates paid were those provided for by the existing tariff, and that the fact that the tariffs for other points were discriminatory as against Galt and Waterloo, would not have been proper ground for disallowing some of the tariffs, or requiring a change, if an application had been made therefor, and it did not give the Board jurisdiction to direct or authorize the rebate for which authority is asked, or to interfere in the matter.

Judgment in dissent, Mr. Commissioner Mills.

'I regret my inability to concur in the decision arrived at in this case. It seems to me to grow out of such a strict and an inflexible interpretation of one section of the Railway Act as results in defeating or nullifying other sections of the said Act—construing section 328 so as to defeat the manifest intention of the equality sections, 315-320 inclusive, which were inserted in the Act to prevent unfair or unjust discimination.

'The case is one of admittedly unjust discrimination, amounting to $40.61 against George Moore & Co., of Waterloo, Ont., due to a mistake in the tariff. The company admits the mistake and offers to refund the amount. Our chief traffic officer advises that the refund be made, provided two things are done to remove the possibility of discrimination against any other shipper of the same commodity; and the decision

of the Commission is that the refund must not be made—that the rate in the published tariff, right or wrong, even though it has admittedly resulted in discrimination, must be charged, no matter who suffers loss, until a new tariff is printed and published. This may be according to the letter of the law; but it is, I think, at variance with the principles of justice; so I have to dissent.'

Held further (Chief Commissioner and Deputy Chief Commissioner), following previous rulings (see complaint Dominion Concrete Company, Ltd., and the E. B. Eddy Company's complaint):—

'That the Board is not a court for all purposes, but only for the purpose set out in the Act. Discrimination is forbidden by the Act. The Board, under its general jurisdiction, has power to prohibit the continuance of discriminaton when found to exist, and it has the power to disallow tariffs which, in that or other respects, are contrary to the provisions of the statute; but I cannot find anything in the Act which confers upon the Board jurisdiction to direct or authorize rebates on the ground set up in this application.'

Naylor and the Windsor, Essex and Lake Shore Rapid Railway Co.

This was the complaint by C. E. Naylor, of the town of Essex, alleging that the Windsor, Essex and Lake Shore Rapid Railway Company had constructed its line of railway and high tension wire along Talbot street, in the said town of Essex, in such a way that electrical current had escaped from the said wire to the wires of the complainant and thence to private premises, where it had caused damage; and applied for an order directing that steps be taken to remove the danger.

The Windsor, Essex and Lake Shore Rapid Railway Company was incorporated by Act of the legislature of the province of Ontario, passed in the year 1901, c. 92. By that Act the company was authorized to construct a railway, to be operated by electricity, from a point in or near the city of Windsor, through the towns of Essex and Leamington, to a point in or near Wheatley. The Act provided that the railway, or any part thereof, might be carried along and upon such public highways as might be authorized by the by-laws of the respective corporations having jurisdiction over the same.

By Act of the Parliament of Canada, 1906, c. 184, the railway works of the company were declared to be for the general advantage of Canada, and provided that the Railway Act, 1903, and amendments thereto should thereafter apply to the company and the said works to the exclusion of the Electric Railway Act of Ontario or any provision of the Company's Act of incorporation inconsistent therewith; but that nothing therein should affect any action theretofore taken pursuant to powers in such Acts contained.

The Dominion Act also provided that the company should not construct or operate its line of railway along any highway or other public place without first obtaining the consent (unless such consent had already been obtained), expressed by by-law of the municipality having jurisdiction over such highway or other public place, and upon terms to be agreed on with such municipalities.

On the 7th of April, 1902, the municipal council of the town of Essex passed a by-law granting to the company, subject to the terms and conditions contained in the by-law, the right to construct its line through the town and along the highway known as Talbot street. The by-law provided that the poles and wires of the railway company should be so placed as not to interfere with the poles or wires of any other person or company then existing. The by-laws also provided that the franchises thereby granted should be subject to all other franchises, rights or privileges in respect of Talbot street, within the town, theretofore enjoyed by any person or persons, company or companies.

On the 19th February, 1900, an agreement in writing was made between the town of Essex and the complainant, under which the complainant agreed to furnish certain lamps for street lighting in the town, and to keep the same burning each night.

At the time of the passing of the by-law, the complainant had upon and along Talbot street, a number of poles and wires used for the purpose of furnishing power for the lighting of the streets and the lighting of private premises. The railway company constructed a line of railway along Talbot street and put upon the street poles and wires for the purpose of conveying electrical power for the operation of the railway. In doing this, it iterfered to some extent with the complainant's poles and wires, and so that there was risk of the escape of the current from their wires to those of complainant. The evidence showed that electrical current had escaped from the company's power wire to complainant's wires and thence to private premises, where it had caused damage.

Hearing at Chatham, October 29 and November 1, 1907.

Judgment, Chief Commissioner Killam, December 24, 1907.

'. . . . . If the railway and the power line were constructed before the passing of the Act declaring the company's railway works to be for the general advantage of Canada, it appears to me that no order of the Board was necessary to authorize their subsequent maintenance and use. If none of these things were done before the passing of the Act, I think that the railway company required the leave of the Board, under sections 235 and 237 of the Railway Act, for the purpose. If part only of the work was done before the Act and a part afterward, difficult questions might arise as to the necessity for such leave, under which the actual facts might be material; and I, therefore, refrain from expressing any opinion upon such questions.

For the present I assume that the work, or sufficient of it, was done before the passing of the Dominion Act to render the maintenance and operation of the railway upon and along the street lawful. If the company were coming for leave to construct and operate the railway upon the street, the Board would clearly, in my opinion, have the power to impose upon the company such conditions as it might see fit for the purpose of protecting existing telegraph, telephone or electric lighting lines, and for the purpose of protecting the public from the danger necessarily arising from the escape from the railway company's wires of heavy electrical currents to and over any other lines; and it appears to me equally clear that, if the railway and its power lines were lawfully upon the street when the Dominion Act was passed, the Board still has the power, under section 238 of the Railway Act, to impose similar conditions upon the railway company or to make orders requiring the railway company alone ,or other parties interested or affected or the company and any such other party or parties jointly, to execute such works or take such measures as, under circumstances, appear to the Board best adapted to remove or diminish the danger.

Both by the terms of the Railway Act and by those of the Act declaring its works to be for the general advantage of Canada, the company became a railway company subject to the terms of the provisions of the Railway Act so far as applicable. The poles and wires erected by the company formed a necessary and integral part of the railway works. In exercising the jurisdiction conferred upon it by section 238, the Board must take into consideration the nature of the works and of the protective measures which works that nature render necessary, just as in the case of a railway operated by the power of steam.

The case is, therefore, one for the exercise of the Board's discretion as to the measures to be taken and the party or parties who are to do the work or bear the expense. The Board's electrical engineer has visited the locality and reported upon the measures which he deems necessary for the protection of the public and of the owners of other lines. The by-law of the town authorizing the construction of the railway upon and along the street required that the railway company's poles and wires should be so placed as not to interfere with any poles or wires of any other person or company existing at the time of the passing of the by-law. Whether a formal by-law of the town council was necessary to enable Naylor lawfully to place and maintain his lines upon the public street, we must presume that they were there with the knowledge and the tacit consent of the municipal authorities.

Under these circumstances, it appears to me that the railway company should adopt the measures and bear the expense necessary to the protection of the existing lines and of the public.

At the hearing Naylor's counsel expressed his client's willingness, if the railway company would construct the necessary lines for the purpose of enabling him to transmit power across the street where this was necessary for connections on the other side, and would allow the use of its poles on the opposite side of the street, to do the work and bear the expense of running his wires along these poles.

This appears to me to be a reasonable solution of the difficulty, and an order should, in my opinion, go accordingly; the order to be drawn under the advice of the electrical engineer and to direct the railway company to provide and place, in accordance with the recommendations of the electrical engineer, the wires necssary for this purpose, and to allow Naylor the use of its poles for carrying his wires—the same to be placed to the satisfaction of the Board's electrical engineer.

The railway company should pay Naylor the costs incurred by him in respect of the proceedings before the Board in this matter, and the order should so provide.

It does not appear to be necessary to enter into consideration of the objections to the by-law or to Naylor's authority for the use of the street, or to any of the other questions of law raised by counsel. I would put the case wholly as one for the exercise of the Board's discretion under the express terms of the Railway Act, and impose the expense upon the railway company in view of the terms of the by-law which was necessary to enable it to use the street.'

Order, dated January 15, 1908, issued accordingly.

Interswitching.

Several applications and complaints from different places were made to the Board respecting what are known as switching charges, and related—

(*a*) To the amount of the charges;

(*b*) To the practice of adding to the tariff rates of the company carrying to a particular place the switching charge of another company to which the traffic is transferred for carriage to and delivery at another point in or near the same place; and

(*c*) To the practice of railway companies, in cases where the traffic originates at a place common to the two companies, or what are usually designated as competitive points, while adding the charge when the point of origin is non-competitive.

Hearings at Winnipeg, Lindsay and Toronto.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier and Mr. Commissioner Mills, December 26, 1907.

'....In some late cases before the Interstate Commerce Commission in the United States, Nos. 1073, 1074, Laning-Harris Coal and Grain Company v. Atchison, Topeka and Santa Fe Railway Company, 12 I.C.C. Rep. 556, the complainants claimed that the tariff rates of the railway company, which read to Kansas City, included delivery at any points within the corporate limits of Kansas City without regard to whether this was or was not upon the lines of that company. The Commission said in its report: "This claim and argument are entirely at variance with customs of many years' standing and contemplate imposing upon the carrier a duty which it would be utterly unable to perform. The Act to regulate commerce in specific terms provides that one carrier shall not be obliged to give the use of its tracks and terminals to another carrier engaged in like business. The defendant company could not deliver cars to any industry except upon its own rails without the consent and co-operation of the carrier or carriers upon whose rails the industry sought to be reached is located or via whose rails it is reached. A carrier may not reasonably be required to accept and deliver free of charge traffic which is moved by its com-

petitor." And again: "In the absence of tariff specifications to the contrary, the transportation shown in a carrier's tariffs to a given point are and always have been understood to include delivery to industries or unloading places located upon its own rails, and if consignee or owner of shipment orders it transported by another carrier to another place, he must expect to pay the lawful charge for that service."

In those cases the shipments were originally billed simply to Kansas City, and, after arrival, direction was given to transfer to destinations not on the line of the originating company. But, the same principles were applied in another set of cases, No. 1078, Leonard v. Chicago, Milwaukee and St. Paul Railway Company and other cases, 12 I.C.C. Rep. 573, where it appeared that at one time the originating company absorbed the switching charge, later discontinued the practice, and subsequently resumed it; and the complainants claimed that the adoption of the practice and subsequent resumption after discontinuance showed the unreasonableness of requiring shippers to pay the switching charge; but the Commission refused to disallow the charge. There the Commission said: "The practice at that time of absorbing switching charges without a specific tariff provision therefor was very general among the carriers. If offence against the law was involved in such practice it would rest in the absorption rather than in requiring shippers to pay, because the switching charge being the charge of another carrier, should appear in its tariff. No switching or other terminal charges should be absorbed except under a plain and specific tariff provision therefor.'

'There is not in our legislation any express provision similar to that in the United States Commerce Act, that one carrier shall not be obliged to give the use of its tracks and terminals to another carrier engaged in like business. But, in the absence of any such enactment, this must necessarily be the law. Express legislative authority is necessary to enable one railway company to use the lands or premises of another company without its consent. Such authority is embodied in section 176 of the Railway Act, provided the approval of this Board is first obtained; and the Board is empowered to fix the compensation to be paid therefor. In the London case, the Board held that the transfer by one railway company to another at a junction point of traffic to be delivered on the second company's line near the junction point did not constitute a use by the first company of the second company's tracks or terminals; but that the second company was to be compensated by a fair rate for the receipt, carriage and delivery of the particular traffic so transferred, including the use of its premises for the purpose. The rule was laid down that the 'division between railway companies of the joint rates for traffic thus interchanged should be made upon the principle of giving reasonable compensation for the service and facilities furnished by the respective companies in respect of the particular traffic thus interchanged. The order of the Board required the interchange of traffic between the lines of the Canadian Pacific Railway Company and the Grand Trunk Railway Company at the junction point near London to and from the tracks and terminals of the Grand Trunk Railway Company in and near London, and provided that the rates to be charged for such traffic should be those provided for by any joint tariffs in existence between the railway companies interested, and, in the event of there being none, the rates charged by the Grand Trunk Railway Co. between the same points, and, in the absence of either, the rates charged by the Canadian Pacific Railway Company between the same points, and fixed the amounts to be charged by the Grand Trunk Railway Company. In that case the Canadian Pacific Railway Company consented, and offered to absorb the Grand Trunk Railway Company's charges. The order was affirmed on appeal to the Supreme Court of Canada.

I think the principles laid down by the Interstate Commerce Commission are correct—that a railway company's tariff to and from particular places should, in the absence of indication to the contrary, be read as covering only traffic originating at and for delivery upon its own tracks and connecting sidings within its own terminals,

and not as including traffic originating or for delivery at or near the same places upon the lines of another carrier; that a reasonable additional rate should be payable for what is ordinarily designated switching, namely, the service for short carriage and receipt or delivery as the case may be; and that the company carrying for the long distance should not be obliged to absorb the whole of this charge. I think, however, that the Board may require the two companies to treat such traffic as joint traffic and to establish therefor joint tariffs under which the joint rate may be less than the sum of the two rates, and each or one of the companies required to accept less than its full rates. In such cases the principal carrier does not usually perform the full service which it performs in ordinary cases of receipt, carriage and delivery upon and over its own lines only. There may be cases in which as much service is performed, but usually the service is less.

The Board's chief traffic officer has made a report upon this subject which contains valuable suggestions and recommendations both as to fixing the bases of switching charges and as to divisions of the joint rates between the carriers, and also as to some other matters.

In the case recently heard by the Board at Toronto it appeared that it had long been the practice of the two companies operating there (the Grand Trunk Railway Company and the Canadian Pacific Railway Company) to absorb these charges in respect of traffic upon their respective lines to and from Toronto, received or delivered on the lines of the other, and that, without any change of tariffs, they had recently abandoned this practice and adopted the principle of adding the switching charges to the regular tariff rates. The origin of the practice was explained. It appeared that, when the Canadian Pacific Railway was constructed into Toronto, it had to receive and deliver its traffic wholly or mainly upon the tracks of the Grand Trunk Railway Company and was practically compelled to bear the charges therefor, that, as the Canadian Pacific Railway Company established and enlarged its terminals and acquired sidings to industries and places of business, the Grand Trunk Railway Company followed the same practice in reference to traffic received and delivered on the tracks of the Canadian Pacific Railway Company. It does not appear to me that the railway companies are bound to make an exception in the case of Toronto or that, because of their having thus mutually absorbed these charges for a considerable length of time, they must necessarily continue to do so forever. The whole question is one of reasonableness; and while the continuance of the practice affords evidence of its reasonableness, it is not conclusive. I do not feel that we can properly require the companies to continue it. I think, too, that each company, without changing its tariffs, could add the charge of the connecting carrier. The switching tariffs should certainly be filed with the Board, but, in the absence of filing, the rates set out in thestandard tariffs would prevail; and it is not claimed that charges were made at higher rates. All claims made for refunds should, therefore, in my opinion, be disallowed. The exact amounts which should be paid and the exact divisions for the aggregates of the two sets of charges which are to be allowed hereafter, were not considered and discussed at Toronto. Our attention was confined to the main questions of principle. Naturally the scales suggested by the chief traffic officer cannot well be applied generally without consideration of local circumstances.

While, in my opinion, the railway companies by which the principal carriage is performed should not be obliged to bear the whole of these switching charges, it does not follow that they should be debarred from absorbing the whole of such charges provided that this does not involve unjust discrimination or preference. The Railway Act recognizes that what might otherwise constitute unjust discrimination or preference may be justified as the effect of competition. If a railway company receiving or delivering traffic upon its own lines is obliged to charge its full tariff rates without absorbing the switching charges of the line from which it receives or through which it delivers the traffic, it will often be deprived of the opportunity to get traffic from or to places common to it and other railway companies, and such places would often

lose some of the benefit of competitive conditions. While this may result in some disadvantage to non-competitive points, the existence or possibility of such disadvantage cannot, I think, be considered as constituting unjust preference or discrimination. I think that the Board cannot properly require the railway companies to absorb the whole of such charges in all cases, or prohibit them from absorbing them where this is induced by real competition.'

Brantford and Hamilton Power Wire Crossing over the Railway of the Grand Trunk Railway Company of Canada at Cainsville, in the Province of Ontario.

This was an application by the Brantford and Hamilton Electric Railway Company, under section 246 of the Railway Act, for leave to carry a wire for the transmission of electric power of high voltage across the Grand Trunk Railway Company's tracks at Cainsville. The applicant company had previously obtained leave to carry its railway under the track of the Grand Trunk at this point. The Grand Trunk Railway Company asked that the wire also be carried under its dailway. The electrical engineer of the Board reported that this would not be safe, and that the crossing should be over the railway, and the telegraph and other wires along the railway.

The Board proposed to make a short temporary order, giving the right of crossing, specifying certain precautions, and leaving it subject to further order. A draft of such an order was submitted to the railway companies. It was approved by the applicant company, but objected to by the Grand Trunk Railway Company, which submitted a form of order embodying a number of conditions to which the applicant company objected. Among others, there was a provision for indemnifying the Grand Trunk Railway Company against damage.

Judgment, Chief Commissioner Killam, February 17, 1908:—

'The question of requiring the condition of indemnity was very carefully considered by the Board in some applications of the Kaministiquia Power Co., and it was the re decided by the Board that, when the power wire is sought to be carried over the railway company's own property without other compensation to the railway company, it is reasonable to make the power company responsible for any injury resulting therefrom, except such as may be due to default or neglect on the part of the railway company's servants or agents; but that, where the wires are, under proper authority, being carried along a highway over which the railway company has merely a right of crossing, such responsibility should not be imposed upon the power company, which, in such case, should be left to its common law liability.

The order in that case was settled after contest between the power company and the railway company, and the form seems to be a reasonable one for ordinary use, and should, I think, be adapted to the present case.'

Order issued accordingly, March 24, 1908.

Re *Private Siding.*

The facts, as related to the board, were that 'S,' a private individual, had a siding partially on his own land and partially on the land of an adjoining neighbour 'C,' connecting with the Canadian Northern Railway Company's line of railway. As the siding was not, at the time of the application to the Board, and had not been for some time previous, used by 'S,' 'C' applied to the company for permission to load a few cars of wood, thereby saving quite a haul and the necessity of crossing the company's track. The railway company refused its consent, and the Board was asked to direct the company to grant the same.

The Board caused inquiry to be made, and found that the siding referred to was a private one, put in under an agreement between the railway company and 'S'; that there was no record of any order either of the Board or of the Railway Committee of

the Privy Council, authorizing the construction of the siding as a branch of the railway company.

Held, that the Board had no power to compel the railway company to use the spur for 'C's' accommodation; that if the siding had been placed upon 'C's' land without his authority it would be a matter in respect of which the Board had no jurisdiction, but rather a matter of civil right which must be dealt with in the ordinary courts, in case 'C' desired to assert a claim to the land as against the railway company or against 'S.'

January 30, 1908.

Re *Highway Signboards.*

Under the Railway Act, signboards at every railway crossed at rail level by any railway are required to be erected and maintained at each crossing, with the words 'railway crossing' painted on each side thereof in letters at least six inches in length.

The Board was asked if any arrangements had been made by it with respect to the placing of these signboards; whether or not a signboard could be placed in the middle of the highway leading to the crossing, or on the side of the road; and whether they could be so placed that there would be a danger to vehicles running into them.

Held, that in the absence of complaints that highway signboards are so placed as to obstruct highway traffic, it was not necessary for the Board to adopt any regulations in respect thereto; that, in the opinion of the Board, a railway company is not justified in placing highway signboards in such positions as to obstruct highway traffic; and that the Board would be glad to be informed of any cases in which such signboards are so placed.

April, 1907.

Re *Complaint of Monypenny Brothers & Co.*

Complainants alleged that they had occasion from time to time to make a claim against the Grand Trunk Railway Company for shortages in shipments made to them occurring through pilferage while in transit. The shipments referred to were consigned to complainants at Toronto by the manufacturers in the old country, and were shipped via the English railroads, the steamship line and the Grand Trunk Railway. The contention was that the Grand Trunk Railway Company was responsible to them, but that the company refused to admit liability, alleging that the goods were delivered as received from the steamship company.

Held, that the Board has no jurisdiction to compel railway companies to pay claims for lost or damaged goods; that the remedy given by the statute is by action in a court of competent jurisdiction; and that the Board did not consider that it could properly advise upon the question of the railway company's liability.

January, 1908.

Re *Application of the Town of Almonte for Protection of Crossings by Canadian Pacific Railway over certain Streets in the said Town.*

This was an application by the corporation of the town of Almonte for an order directing the Canadian Pacific Railway Company to provide suitable and proper protection at the railway crossings in the said town.

After hearing, the judgment of the Board—Chief Commissioner Killam and Deputy Chief Commissioner Bernier, Mr. Commissioner Mills dissenting—was that the railway company be required to place and maintain an electric bell at the Main street crossing and to construct a subway to carry Little Bridge street under the tracks of the railway company, according to plans to be submitted to and approved by the Board's engineer; and to erect and maintain gates at the bridge street cross-

ing, and keep a watchman or watchmen there at all hours by day and by night, the town to pay one-half the wages of such watchman or watchmen. The order also to provide that by consent of the council of the town, the gates might be closed at such hours of the night as the council prescribed. The order further to provide that if the town should consent by resolution within three months from the date of the order, the subway was to be placed at such point between Bridge and Little Bridge streets as the Board determined, and both the said streets diverted into and through the subway, and the level crossings at both streets closed. In every case the railway company to bear all compensation, except in respect of injury to the property of the town, which was to be borne by the town.

Judgment in dissent, Mr. Commissioner Mills.

At the re-hearing of this application on March 26, 1907, it was stated by the mayor that the population of the town of Almonte is 1,200 less than it was about twenty years ago; and, assuming this statement to be correct, I cannot avoid the conclusion that the town has not contributed in any degree to the increase in danger at the railway crossings referred to in the application. This increase in the danger which has made protection at the said crossings now necessary, has, in my opinion, been caused to some extent by the raising of the railway tracks at Bridge street and Little Bridge street, but is chiefly, I might say almost wholly, due to the increase in through traffic on the railway, especially to through trains which run at a high rate of speed and pass Almonte without stopping. Therefore, I am unable to see the equity of requiring the town to pay anything towards the protection of crossings over streets which were in existence when the railway was constructed, and which have been made dangerous, not by increased population or increased traffic in the town, but by through traffic on the railway.

Hence, in view of the admitted facts, and the allegations of the mayor as to the decrease in the population of the town and the consequent decrease in vehicular and pedestrian traffic over the crossings referred to in the application, and his declaration as to the smallness of the total assessment of the town and the very high fixed rate of taxation, my judgment is that an order should go directing the railway company, at its own expense, to put in and maintain an electric bell at Main street, as per the report of Engineer Simmons; construct a subway on Little Bridge stree, as per the report of Chief Engineer Mountain; and remove the building and shed which obstruct the view at Bridge street—the town agreeing to pay to the said company one-quarter of the actual cost of the subway on Little Bridge street.

April, 1907.

The Canadian Pacific Railway Company v. *The Grand Trunk Railway Company (known as the London Interswitching Case, Reported in the First Annual Report of the Board, at p.* 86.)

The Board granted leave to the Grand Trunk Railway Company to appeal from its order to the Supreme Court of Canada, and the following questions were submitted, with the approval of the board:

1. Had the Board authority, under the Railway Act, 1903, and particularly under sections 253, 271 and 214, to make the order in question under the circumstances shown in the record in this case?

2. Are sections 266 and 267 of the Railway Act, 1903, applicable under the circumstances of this case where one and the same through rate is charged to and from all points within the district lying in and about the city of London to which the said order applies?

3. Does the order appealed from involve the obtaining by the Canadian Pacific Railway Company of the use of the tracks, station or station grounds of the Grand Trunk Railway Company at London, for which the Grand Trunk Railway Company

should obtain compensation under the Railway Act, 1903, and particularly under section 137?

4. Was the Board 'bound, as a matter of law,' to take into consideration, in estimating the remuneration or compensation to be allowed to the Grand Trunk Railway Company in consequence of or for what was required of that company by the said order:—

(*a*) The magnitude of the business of the Grand Trunk Railway Company at London as compared with that of the Canadian Pacific Railway Company at that point.

(*b*) The comparative advantage which each of the said two companies can offer to the other there.

(*c*) A comparison of the loss which one company is likely to sustain with the gain likely to accure to the other company from the giving of these facilities which the law required.

(*d*) The amount which may have been expended by the Grand Trunk Railway Company in the acquisition of their terminal facilities at London or the value of their investments therein, otherwise than as evidence of the fair value of the service to be rendered and of the use of the facilities to be afforded under the said order.

(*e*) The amount of any further investment of capital which the Grand Trunk Railway Company may be obliged to make in order to carry out the terms of the said order, otherwise than as excepted by the last preceding paragraph.

The order was affirmed.

The judgment of the court delivered by Davies, J.: Since this appeal was taken from the decision of the Railway Commissioners, Parliament has enacted an amendment to the Railway Act, placing beyond doubt the power of the Commissioners to make such an order as the one now appealed from.

Our decision, therefore, as to what was the true meaning of the original Act is of no public importance, and we do not see any good purpose in stating reasons for the conclusion we have reached that the appeal must fail.

We should answer the first and second questions in the affirmative and all others in the negative.

Ruling re *Application for Opinion in Matter not Pending before Board.*

An ice company owned a switch from the line of railway of a railway company to their ice house, which they kept entirely in repair and owned themselves.

The railway company delivered cars to their ice house over this switch. The Board was asked on behalf of the owners of the industry who would be responsible for accidents that might occur in the operation of the switch, and whether the railway company would have the privilege of operating the switch against the wishes of the ice company.

Held, Chief Commissioner Killam, that, while the Board is always willing to give information as to the contents of statutes to which parties may not have the means of convenient access, it considered that it should not undertake to give legal opinions as to parties' rights under circumstances stated to it, except where it became necessary to do so in dealing with applications and complaints that came before it in due course for adjudication; that, in the case submitted, the rights and obligations of the parties might be affected by the circumstances not known to the Board, and the Board felt, therefore, that it could not properly undertake to advise in the matter.

Re *Brantford and Hamilton Railway*—re *Carriage of Troops on the Brantford and Hamilton Railway.*

The Board was advised by residents in Hamilton that it was proposed to transport two regiments of troops from Hamilton to Ancaster, stating that an inspection of the

Brantford and Hamilton Railway would be necessary before that time, and asked the Board to cause an inspection to be made.

The chief engineer of the Board inspected this company's railway from Hamilton to Ancaster, a distance of six and one-half miles, and recommended that the request of the citizens to haul troops over it for the date asked be granted upon certain conditions.

Held, Chief Commissioner Killam, that there was no authority for the making of an order such as that recommended by the chief engineer. By section 261 of the Railway Act, no railway, or any portion thereof, is to be opened for the carriage of traffic other than for the purposes of the construction of the railway until leave therefor has been obtained from the Board, as thereinafter provided. Two systems of opening are provided for: (1) for freight traffic only; (2) for traffic generally, after a certain application and affidavit has been furnished and an engineer has reported that, in his opinion, the opening of the railway, or portion thereof, proposed to be open for the carriage of traffic, will be reasonably free from danger to the public using the same. The necessary application and affidavit have not been furnished and the engineer has not reported as required by the Act. Upon these grounds, the Board refused to authorize the limited use of the railway as asked for.

Ocean Bills of Lading.

A railway company submitted to the Board, for temporary approval, forms of bills of lading covering traffic between ports in Europe and Canada. Some of these were intended for ocean traffic only, others appeared to relate to traffic partly by ocean and partly by rail in or through Canada, and while the terms of the bills of lading appeared to be intended to cover the railway service as well as the ocean transportation, they were evidently drawn with special reference to the ocean transportation, and the effect of their application to the railway service was not clear.

Held, Chief Commissioner Killam, that in respect of the bills of lading intended for ocean traffic only, the Board had no jurisdiction; that, in regard to the others, which appeared to be drawn for traffic to be carried partly by ocean and partly by rail, while the terms of the bills of lading appeared to be intended to cover both the railway service and the ocean transportation, they were evidently drawn with reference mainly to the ocean carriage; and the application, in many parts, to the railway service difficult, and their probable effect far from clear; and that in other respects the terms of the bills appeared to the Biard not to be reasonable or such as the Board should approve for transportation upon railways; that, by the terms of the bills, it appeared to be intended that the carrier should be relieved from liability for many intentional wrongful acts and many acts of negligence of employees; that the provision requiring consignees to take delivery of goods within twenty-four hours after arrival, although they may have had no opportunity to learn of the arrival, did not appear to the Board to be reasonable; and that the provision giving a lien on goods not only for the freight and charges thereon, but also for all previously unsatisfied freight and charges due by consignees, appeared to be unreasonable and also to go beyond what is authorized by section 345 of the Railway Act; and that in these and other respects the forms of the bills appeared to the Board to be so objectionable that they should not be approved.

April 4, 1907.

Re *Application of the Vancouver, Westminster and Yukon Railway Company, under Sections 221 and 224 of the Railway Act, for authority to construct Branches or Spurs in the City of Vancouver.*

In this case the Board decided the principle that it could not authorize the construction of a branch line from a point on a line of railway not yet existing.

The question also arose, where the proposed branch line or spur involved the crossing of a navigable water, whether the Board could authorize such construction before the approval by the Governor in Council of the site and plans of the work as required under section 233 of the Railway Act. This section provides that when the company is desirous of constructing any work over a navigable water, a plan and description of the proposed site for such work and a general plan of the work to be constructed must have the approval of the Governor in Council; and upon such approval, application made to the Board for an order authorizing the construction of the work.

Held, here, that while there was no doubt that False Creek and the arm in question, as navigable waters, required the approval by the Governor in Council of the site and plans of the work before it could be constructed, such approval was not a necessary condition precedent to the granting of the application by the Board.

Chief Commissioner Killam: 'The converse is, to my mind, the case; the authority to build a branch is a condition precedent to the application for approval of the site and plans of so much as crosses navigable water. In my opinion, the granting of authority by the Board to build a branch does not, of itself, relieve a railway company from liability to comply with the other provisions of the Railway Act, it does not, of itself, authorize the grading of the line across a highway or another railway without specific leave therefor from the Board, though it is convenient in many cases to determine upon the one application, or at the same time, whether the last mentioned leave should be given, as in many cases circumstances affecting applications for such leave might well have to be considered in determining whether the branch should be allowed, and the parties interested in the railway or highway crossings might well be heard upon the original application. In many cases, it may well appear that the objection to such modes of crossing highways or railways as are found practicable, are such that no authority should be given for the construction of the branch, and, in the present case, the Board is entitled to take into consideration the extent to which any of these lines would probably obstruct navigation, before determining the application.'

April 10, 1907.

Re *Montreal Produce Merchants' Association's Complaint.*

This was a complaint against the advance in the winter export rate on butter and cheese from Montreal to Portland and West St. John, as proposed by the Grand Trunk and the Canadian Pacific Railway Companies, alleging that for two or three winters prior to the lodging of the complaint the rate on these commodities had been 16 cents per 100 lbs., and that it was now proposed to increase this rate to 20 cents per 100 lbs., or an advance of 25 per cent. The complainants asked for an order restoring the original rates.

At the hearing it was alleged on behalf of the complainants that the fact that the lower rate had been maintained for a number of years was evidence that such rate was a reasonable and profitable one, and that, therefore, the new rate was unreasonably high.

Judgment, Chief Commissioner Killam, concurred in by Deputy Chief Commissioner Bernier.

The only ground upon which, under section 323 of the Railway Act, the Board is authorized to disallow a tariff, or a portion thereof, is that it considers it to be unjust or unreasonable, or that it is contrary to some of the provisions of the statute.

In this case, the statutory notice of increase was given, and the tariff does not appear to be in any way contrary to any of the provisions of the Railway Act. The Board has no power to compel railway companies to give longer notice than that provided for by the statute.

While the previous existence of a particular rate affords evidence of its reasonableness, it is not conclusive evidence, but more or less cogent according to circumstances. In the present case, having reference to the nature of the service, the lowness of the rate per mile, and th opinion of the chief traffic officer of the Board, 'that, for the season of the year and the services performed, the rate is a reasonable one,' I do not think that the Board can properly find that the rate complained of is unjust or unreasonable. The board has no power to compel a railway company to reduce a rate, which it does not consider unjust or unreasonable, merely for the purpose of encouraging traffic or of preserving the vested interests of dealers in a commodity, or others interested in its transportation.

Judgment in dissent, Mr. Commissioner Mills.

First, as to the notice given by the Grand Trunk Railway Company and Canadian Pacific Railway Company, of their intention to raise their rates 25 per cent—from 16 cents to 20 cents per 100 lbs.—on winter shipments of butter and cheese from Montreal to Portland, Me., and West St. John, N.B. Notice was given on the 1st November and the increase was made on the 1st December—30 days afterwards.

Notice of 30 days, under ordinary circumstances, would be quite sufficient. In some cases it might perhaps be more than could reasonably be demanded; but in this case, while sufficient in itself, it was not given at the right time; it was long enough, but not soon enough. It was withheld, or not given, till the greater part of the season's make of cheese had been shipped and the Montreal exporters had bought and stored most of what they required for winter shipment. Therefore, I think the complaint of the Montreal Produce Merchants' Association is well founded and should be favourably considered by the railway companies.

Second, as to the cartage in Montreal. I certainly think that the exporter or other shipper should be allowed to do his own carting, if he so desires. If the rates charged by the railway cartage companies are as low as those charged by other carters, shippers will undoubtedly patronize them in preference to private carters. If they are higher, why should not shippers be allowed to employ private carters or use their own teams to do the work? I have heard no satisfactory answer to this question, and I cannot think of any.

Third, as to the increase from 16 cents to 20 cents per 100 lbs. in the rate on winter shipments of butter and cheese from Montreal to Portland, Me., and West St. John, N.B.

The chief traffic officer (in his report, page 3) says that 'eliminating the rates of previous seasons and the revenue already earned on the bulk of the traffic..... the rate (that is, the present 20-cent rate) is a reasonable one;' but this elimination assumes a condition of things which has not existed and does not now exist, and helps us only to a theoretical conclusion as to what, under non-existent conditions, would be a reasonable rate for the service rendered. On the same page, however, he proceeds to discuss the rate under the conditions which have existed and now exist. He says that if a lower rate had been maintained for a number of years, under practically the same conditions, 'the inference cannot be avoided that the lower rate must have been profitable, and, therefore, that the new rate is unreasonably high.' He shows that, with two slight exceptions, the rate was 16·07 cents from 1904 till the time of the increase on 1st December, 1906, and that prior to December, 1904, the rate varied from 14·47 cents to 18·22 cents, averaging 15·19 cents. He calls attention to the fact that the rate of 15 cents per 100 lbs. on packing-house products between the same points is 25 per cent below the standard tariff, and that the 20-cent rate on butter and cheese is only 13 per cent under the said tariff, and concludes that, in view of all the facts and circumstances, the 20-cent rate is unreasonably high.

Therefore, I have not reached the same conclusion as my fellow Commissioners in this case. I approve of the recommendations of the chief traffic officer, 'that the companies be directed to reduce their rate from 20 cents to 18 cents per 100 lbs. on carload lots, and to give exporters the option of making their own arrangements for

the cartage of their butter and cheese under the through rate and stop-over system;' and my judgment is to that effect.

April, 1907.

Re *Wire Crossings—Conditions as to Indemnity.*

Chief Commissioner Killam:

The question of requiring parties applying for leave to carry wires across railway tracks, to indemnify against injuries arising therefrom, is one that must be determined in each case according to the circumstances; but some general rules are applicable. It is a principle of law that a person storing or placing on his own land something which, in its nature, will be injurious to others if allowed to escape, is responsible to others for injuries caused through its being allowed to escape. This principle, however, is qualified by another, which is that, where a party is authorized by a statute to do anything, as the doing of it is, in such a case, lawful, he is not responsible for the injuries resulting therefrom to others. Unless, however, the statute specificlly authorizes it, he is not empowered to enter upon or take the property of others without the consent of the owner. Where the statute gives this latter power, it usually provides for compensation to the owner of the property, and the courts consider that, unless the Act is clear, the presumption should be that the legislature does not intend to give the power without a right to compensation.

Companies authorized to construct railways and to operate them by steam, electricity or other power which involves danger to others, may lawfully do so without liability from any injury through the use of the necessary agencies for the purpose, unless the real cause of such injury is in the misfeasance or negligence of the company, its officers or employees. The same principle applies to companies authorized by the legislature to raise wire structures and transmit electricity thereby.

Railway companies are almost uniformly given the power to take private property without the consent of the owner; but provision is made for compensating such owner. Such provisions may differ in different statutes. Usually, such companies are not required to compensate parties, none of whose property is taken, for the discomfort, inconvenience or positive injury done them or their property by the operation of the railway. Where the company takes a portion only of one man's property, it is obliged to compensate him, not merely by paying the actual value of the piece taken, but also by paying for the injury done by separating it from the other portions of the property; and usually, under most statutes, the courts consider that the use to which the company is to put the property taken and the injury which will thereby be occasioned to the previous owner in respect of the property retained by him, should be taken into account. But where a company is given the power to construct and operate a railway, an electrical transmission line or other work, and is now given power by the legislature to carry it across lands of another party without his consent, it must take that consent with such conditions as the owner sees fit to annex.

By section 246 of the Railway Act, 'No lines or wires for telegraphs, telephones or the conveyance of light, heat, power or electricity shall be erected, placed or maintained across the railway without leave of the Board.'

This merely imposes a condition which must be fulfilled in order to make it lawful to place electrical transmission wires over railway tracks. If that condition were not imposed, such wires could be placed over railway tracks only by consent of the railway company or by authority of the proper legislature. It may be that, in the absence of this stipulation, the authority of a provincial legislature would be sufficient. This clause does not, it appears to me, authorize this Board to empower a company authorized by the legislature to construct and operate electrical transmission lines to carry such lines over the property of a railway company without the consent of that company, unless statutory power is given by the proper legislature to do this.

A railway company stands in this respect in no different position from any other property owner, and railway companies. like property holders, own the land *usque ad coelum*. There is no height above the surface of the earth at which the property holder is not entitled to the protection of the law against the invasion of his right. In the case of the Kaministiquia Power Company, we held that, where the line was being carried along a highway by the authority of the legislature—either direct or through a municipality—as the railway company was not given the ownership of the soil of th ehighway, but merely a right of constructing and operating its railway over the highway, leave should be given to carry the wires over the railway with the imposition of such conditions only as seemed requisite for the protection of person or property, thus leaving the power company liable only for breaches of the conditions imposed or for the misfeasance or negligence of the company, its officers or employees.

If the legislature gives to an electrical transmission company power to carry its wires and transmit electricity by them over a private property, it should be considered by this Board as having a right to do so upon the conditions imposed by the statute giving the authority, and should be given leave for the purpose upon such additional conditions only as we consider necessary for the protection of person and property, leaving it liable for injury only as in the case of highway crossings. But if no such statutory authority is given it, we cannot give that authority, and the electrical company must submit to any conditions which the railway company ask, our function in such case being only to see that such precautions are taken as to remove as far as possible the risk to the public or others than the railway company; and if among the conditions sought to be imposed by the railway company is one of indemnifying the company, its employees and those using the railway against injuries from the works or their operation, whether due to negligence on the part of the electrical company, its officers or employees or not, that condition should, I think, be imposed by our order.

April 18, 1907.

Re *Brown Brothers Company's Complaint.*

Complainants complained to the Board that certain shipments of perishable stock delivered by them to the Canadian Northern Railway Company at Warman, Alberta, consigned to L. D. Daily, Vegreville, Alberta, were so delayed in transit as to become a total loss, and asked if there was no relief that the Board could give in the matter.

Held, Chief Commissioner Killam, that the subject-matter of the complaint was not one in which the Board could afford any relief; that section 284, subsection 7, of the Railway Act provided a remedy to any person aggreaved by neglect or refusal of a railway company to carry and deliver traffic without delay, that is, by action in the ordinary courts; that the function of the Board is to order the furnishing of accommodation and the appliances and means necessary therefor, in case of the failure of the railway companies to do so; that, as the complaint in question relates only to a particular previous shipment, no order that the Board could make would be of service to complainants; and that the Board was not created to take the place of the ordinary courts, but to exercise an entirely different jurisdiction. It was the function of the ordinary tribunals to award compensation for past breaches of the statute ; that of the Board to prevent as far as possible future breaches.

April, 1907.

Re *Ontario Lumber Company's Siding Agreement.*

The Ontario Lumber Company, Limited, of Toronto, applied, under section 176 of the Railway Act, 1903, for an order directing the Canadian Pacific Railway Company to repay and refund to the applicant company the sum of $830 by way of rebate out of the tolls charged by the railway company in respect of the carriage of traffic for the lumber company.

Under an agreement between the applicant company and the railway company, the railway company undertook to construct a siding and to refund to the applicant company the said sum of $830, being the amount deposited by the applicant company as the estimated cost for the construction of the siding.

Held, that the Board had no jurisdiction to enforce the provisions of the said agreement under which the siding was built to the lumber company's premises; that at the time the agreement was made there was no provision in the Railway Act then in force corresponding to the provision in the present Railway Act, under which railway companies could be required to construct such sidings upon the condition, among others, that the deposit should be repaid by rebates from other roads; that the siding was constructed wholly under the agreement; and that the Board had jurisdiction only to enforce provisions of the Railway Act and not rights arising out of contracts.

June 27, 1907.

Re *Robertson* v. *Grand Trunk Railway Company.*

This was an application for an order directing the Grand Trunk Railway Company of Canada to issue third-class tickets at the rate of one penny for each mile travelled, and directing the company to provide at least one train having in it third-class carriages which shall run every day throughout the length of its line. The application was based upon a clause in the original Act of incorporation of the Grand Trunk Railway Company, which provided that the fare or charge for each first-class passenger by any train on the said railway should not exceed two pence for each mile travelled; the fare or charge for each second-class passenger by any train should not exceed one penny and one-half penny currency for each mile travelled; and that the fare or charge for each third-class passenger by any train on the said railway should not exceed one penny currency for each mile travelled.

These provisions have never been expressly repealed. The contention on behalf of the company was that they had been impliedly repealed by subsequent legislation.

By its special Act, the several clauses of the Railway Clauses Consolidation Act with respect, *inter alia,* to tolls, were made to apply to the company and its undertaking so far as th.se clauses were not inconsistent with the provisions of the special Act.

The Chief Commissioner, in his judgment, traces the history of railway legislations from the Railway Clauses Consolidation Act, 1851, down to the present time, so far as such legislation relates to the question of tolls.

The Railway Act requires a railway company to furnish adequate and suitable accommodation for receiving, loading, carrying and delivering traffic, and to furnish and use all proper appliances, accommodation and means necessary therefor; to afford to all persons all reasonable and proper facilities for the receiving, forwarding and delivering of traffic. The Act empowers the Board to order the company to furnish such accommodation where it has failed to do so, and power is given the Board to order that specific works be constructed or carried out, &c.

Held, that the clause requiring the running of third-class carriages and limiting third-class fares was not affected by any legislation prior to the Act of 1903.

Judgment, in part, of Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier and Mr. Commissioner Mills:

'As has been said, the provisions of the special Act have not been expressly repealed. None of the enactments in the Railway Act, 1903, or in the present Railway Act, are explicitly inconsistent with those provisions. The contention on the part of the railway company is that, in effect, those enactments, and particularly the portions relating to tolls and those giving the Board jurisdiction respecting the accommodation, &c., to be furnished by the company, are so inconsistent as impliedly to repeal the provisions of the special Act.

'"If two inconsistent Acts be passed at different times, the last is to be obeyed; and if obedience cannot be observed without derogating from the first, it is the first which must give way." Per Lord Langdale, M.R., in Dean of Ely v. Bliss, 5 Beav., at p. 582. But a "repeal by implication is never to be favoured." Per Field, J., in Dobbs v. Grand Junction W. W. Co., 9 Q.B.D. at p. 158.

'"We ought not to hold a sufficient Act repealed, not expressly as it might have been, but by implication, without some strong reason." Per Lord Bramwell in G. W. R. Co. v. Swindon and Cheltenham R. Co., 9 A. C., at p. 809.

'"A later Act of parliament hath never been construed to repeal a prior Act, without words of repeal, unless there be a contrariety and repugnancy between them, or at least some notice taken of the former law in the subsequent one, so as to indicate an intention in the lawmakers to repeal it." Per Lord Hardwicke, L.C., in Middleton v. Crofts, 2 Atk. 650.

'The court must be satisfied that the two enactments are inconsistent before they can from the language of the later imply a repeal of an express prior enactment.' Per Byles, J., in Conservators of the Thames v. Hall, L.R., 3 C.D., at page 419; and in the same case Keating, J., said (p. 420): 'I entirely agree with my Brother Byles, that, before we come to that conclusion, we are bound to satisfy ourselvees that it is a necessary implication.'

'When the repeal is not express, the burden is on those who assert that there is an implied repeal to show that the two statutes cannot stand consistently the one with the other.' Per Chitty, J., in Lybbe v. Hart, 29 ch. D. 8

The intention to repeal must appear even more strongly where the first provision is contained in a statute of a private or special nature, in which case the maxim *generalia specialibus non derogant* usually prevails. 'A later statute in the affirmative shall not take away a former Act, and *eo potior* if the former be particular and the latter be general.' Gregory's Case, 6 Rep. 19 b.

'The law will not allow the exposition to revoke or alter, by construction of *general* words, any *particular* statute where the words may have their proper operation without it.' Lyn v. Wyn, 2 Bridg., C.P. 127.

'The general principle is that a *general* Act is not to be construed to repeal a previous *particular* Act unless there is some express reference to the previous legislation on the subject or unless there is a necessary inconsistency in the two Acts standing together.' Per Bovill, C. J., in Thorpe v. Adams, L.R. 6 C.P. at p. 135.

'Unless two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time, a repeal will not be implied, and special Acts are not repealed by general Acts unless there is some express reference to the previous legislation or unless there is a necessary inconsistency to the two Acts standing together.' Per A. L. Smith, J., in Kutner v. Phillips, 1891, 2 Q.B. 267.

'It is a fundamental rule in the construction of statutes that a subsequent statute in general terms is not to repeal a previous particular statute unless there are express words to indicate that such is the intention, or unless such an intention appears by necessary implication.' Per Bovill, C. J., in Reg. v. Champneys, L.R. 6 C.P. at p. 394.

'In order to show that a particular Act is repealed by a general Act by implication, it is not enough to show that the particular Act may have become useless or futile, that is to say, that the subject-matter of the particular Act comes within the terms of the general Act; it must be shown, as it seems to me, that there are enactments in the general Act, when rightly construed, inconsistent with the maintenance of the particular Act.' Per Brett, J., in Reg. v. Champneys, *supra,* at p. 404.

'Now, if anything be certain it is this, that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so." Per Lord Shelborne, L.C., in Seward v. Vera Cruz, 10 A.C. at p. 68.

'See also the enunciation of similar principles by Sir W. Page Wood, V.C., in Fitzgerald v. Champneys, 2 J. & H. at pp. 53-61.

'But all of these statements admit that, if the intention of parliament to that effect sufficiently appears, the later Act should be construed as repealing or varying the former Act, whether special or general, and several cases have been cited in which the courts have adopted such construction. In most of these the circumstances and the nature of the enactments vary so much from those with which we have now to deal that they do not appear to afford us any material assistance.

'In these cases the principles before stated are not contravened; in some they are expressly acceded to. Usually, the decisions turned upon the view taken by the court of particular language or of the scope and intention of the legislation as understood by the court. I will cite from but two of them. In Daw v. Metropolitan Board of Works, 12 C.B., N.S. 161, Willes, J., said: "The rule of construction of Acts of parliament as laid down by Vice-Chancellor Wood in the London and Brighton Railway Company v. Board of Works, 26 L.C., ch. 164, is no doubt a very wholesome one. A subsequent general enactment will not derogate from a prior special enactment. When, as the learned judge says, the legislature has had a special case in view, and has specially legislated upon it, the inference necessary is that it does not intend by a subsequent general enactment not referring to the former, to deal with those matters which have already been specially provided for. The rule *generalia specialibus non derogant* is properly applicable to such a case . . . . . In the present case, however, the rule cannot apply. The powers conferred by the two are substantially, if not strictly, the same. So soon as you find that the legislature is dealing with the same subject-matter in both Acts, so far as the later statute derogates from and is inconsistent with the earlier one, you are under the necessity of saying that the legislature did intend in the later statute to deal with the very case to which the former statute applied." And in the Great Central Gas Consumers' Company v. Clarke, 11 C.B., N.S. 814, Keating, J., said: "I agree that, when we find in an Act of parliament a prohibition against a public company exacting more than a prescribed rate, we should require a very clear enactment in a subsequent Act to remove the restriction, but it is equally clear that, if we find in a later Act of parliament provisions which are utterly inconsistent with those of an earlier Act, we are bound to give effect to the later provisions." And i nthe same case, 13 C.B. N.S. 838, Pollock C.B., said: "Although that section is not in terms repealed, yet it becomes a clause in a private Act of parliament quite inconsistent with a clause in a subsequent public Act of parliament. That is sufficient to get rid of the clause in the private Act. Looking at the 19th section of the general Act, we think it is impossible to read it otherwise than as repealing the 24th section of the private Act. We are bound as well by the plain words of the Act as by the general scope and object of it, and also by the justice of the case."

'By section 3 of the Act of 1903, that Act was to be incorporated with and construed as one Act with the special Act, subject as in the general Act provided; and by section 5, in the event of inconsistency between the general Act and any special Act passed by the parliament of Canada relating to the same subject-matter, the provisions of the special Act were to be taken to override the provisions of the general Act in so far as should be necessary to give effect to the special Act. These provisions are combined in section 3 of the present Railway Act. This would settle the matter if the special Act had been one passed by the parliament of Canada, in which case, although earlier than the general Acts, the provisions of the special Act would prevail. But the portion of the Grand Trunk Railway to which the present application refers was constructed under a special Act of the late province of Canada. I have some doubt whether section 6 of the Act of 1903, and the similar section of the present Railway Act, under which the general Act is to apply to the exclusion of such of the provisions of a special Act of a provincial legislature as are inconsistent with

the general Act, were intended to cover the case of a special Act passed by the parliament of the province before the union. The definition of the terms "legislature of any province," and "provincial legislature," in section 2, subsection (r) of the Act of 1903, and section 2, subsection 20 of the present Act, is probably wide enough to include such parliaments; and the Grand Trunk Railway was declared by an Act of the parliament of Canada to be a work for the general advantage of Canada. That declaration was included in an Act amending the general Railway Act, which, though referring specifically to the Grand Trunk Railway and other named railways, may not come within the definition of a "special Act." The Grand Trunk Railway was a railway connecting one province with another, and thus became *ipso facto,* upon the formation of the Dominion, subject to the legislative authority of the parliament of Canada without a declaration that it was a work for the general advantage of Canada. Section 6 was probably intended to apply to railways constructed under special Acts of provincial legislatures passed after confederation.

'Possibly, however, this may not be important, since section 6 embodies the most important of the beforementioned principles, that the prior special Act is repealed or affected by the general Act only where there is inconsistency between them; and I take it that, under either view, the burden is upon the party asserting it to point out the inconsistency, and that this should be made clear.

'The clause in the special Act is two-fold: It limits the fares for different classes of passengers, and it requires the running of third-class carriages. Necessarily, under the later portion, there was some obligation upon the company to furnish reasonable accommodation; some obligation to give some attention to the comfort and convenience of third-class passengers, even though this accommodation and attention should not be of the same character as required for the other classes. The legislation requiring the furnishing of adequate and suitable accommodation and the affording of reasonable and proper facilities, could certainly not affect a repeal of the provision for running third-class carriages, nor, in my opinion, can the legislation empowering the Board of Railway Commissioners to make regulations providing for the protection, safety, accommodation, and comfort of the public. Whatever the obligations under the present Act or the former Acts, these could not satisfactorily be enforced by the ordinary methods in the ordinary tribunals. The Board of Railway Commissioners was created to be the tribunal for the settling of these and other matters affecting railways and railway companies. It does not appear to me that the creation of such a tribunal was in any way inconsistent with the continuance of the obligation imposed by the special Act, or could affect its repeal or evidence an intention of Parliament that the obligation should be no longer effective.

'Under the Railway Clauses Consolidation Act and all the succeeding legislation, down to the Act of 1903, railway tolls were subject to the approval of, and to be altered by, the Governor in Council. This limitation upon the company's powers was embodied in the special Act by reference to the general Act. The jurisdiction of the Governor in Council could exist, therefore, consistently with the limitation as to fares imposed by the special Act, and it does not appear to me that the substitution of the Board of Railway Commissioners as the body which is to approve, and which has the jurisdiction to alter, railway tolls, makes any change in this respect. Under the former legislation, all the railway tolls required the approval of the Governor in Council; under the present, it is only the standard of maximum tariffs which must be approved by the board; and railway companies are authorized to make special tariffs imposing tolls lower than those in the standard tariffs. The practice has been for the companies to obtain approval of standard passenger tariffs, not distinguishing between classes, and to provide for second-class fares by special tariffs. Third-class fares could be provided for in the same way. I do not think that the provisions requiring special tariffs are necessarily inconsistent with the limitations imposed by the special Act or that they are sufficient to indicate the intention of Parliament that the company, in framing special tariffs, was to be free from such limitations.

'I am not informed whether the third-class carriages were at any time used upon the company's railway. To my mind it is clear that the obligation to use them, and to carry at fares limited as in the special Act, continued up to the coming into force of the Act of 1903. I am unable to find in the subsequent legislation any sufficient indication of parliament to abolish the system originally imposed upon the company, as having become obsolete or unnecessary. The imposition of this system was one of the terms and conditions upon which the company was granted its franchise, and it should not readily be presumed that parliament intended to relieve the company from such terms and conditions.

The application is limited to the portion of the Grand Trunk Railway between Toronto and Montreal, and it is unnecessary to consider whether the obligation ever extended to any other portion of the company's lines.

'In my opinion, there should be an order requiring the company to run every day throughout the length of its line between Montreal and Toronto at least one train having in it third-class carriages, and forbidding it to charge third-class passengers fares at more than two cents per mile, and directing it to amend its special tariffs accordingly.

The operation of this order, however, should be stayed a sufficient time to enable the company to appeal.'

Ordered accordingly.

An appeal from the board's order now pending before the Judicial Committee of the Privy Council.

Ottawa, July 4, 1907.

Re *Galt Board of Trade Application for Connections with the Canadian Pacific, Grand Trunk and Galt, Preston and Hespeler Railway Companies.*

This was an application by the Galt Board of Trade, under section 228 of the Railway Act, for an order directing the above-named railway companies to connect their lines or tracks, in the town of Galt, province of Ontario.

Held, after the hearing of the parties interested, that an order should go requiring the Canadian Pacific Railway Company to make connection between its line and that of the Grand Trunk Railway Company at Galt, so as to admit of the safe and convenient transfer or passing of engines, cars and trains over the tracks or lines of one of the said companies to those of the other; and that such connection be maintained and used, the plans of location of the connecting line and of connections with the existing lines first submitted to and approved by the Board.

Held, further, that the order should direct the Canadian Pacific Railway Company, within one month from the issue of the order, to submit to the Board a plan and profile of the proposed connecting line and all connections with the existing lines and the connections thereof with the existing lines of railway of the two companies The applications for connection with the electric railway company to stand for negotiations between the parties.

Ordered accordingly.

November 12, 1907.

Re *Application of the Village of Weston for a Highway Crossing at Dennison Ave.*

This was an application by the village of Weston, in the province of Ontario, under sections 250 and 237 of the Railway Act, for an order directing the Canadian Pacific and the Grand Trunk Railway Companies, *inter alia,* to construct and provide a public crossing at the east end of Dennison avenue.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier, and Mr. Commissioner Mills: 'While the railway companies put

up warning notices and occasionally closed gates on each side of their lines, thereby preventing any inference of intention to dedicate these portions of their lines to public use as a highway crossing, they took no effective steps to put a stop to their actual use by the public for this purpose, and the public have used the same for many years. Such a course of proceeding is highly objectionable. Railway companies should either fence off their lines and take steps to prevent the unlawful crossing of their tracks, or allow public highways to be placed across them where the public interests demand such a course. In tacitly conniving at these trespass crossings while endeavouring to protect themselves from liability in respect of the same, they are maintaining a public danger and ought not to expect the same consideration of their interests as in cases where it is sought to construct entirely new highway crossings over their railways. The multiplication of level highway crossings is certainly undesirable, but not so undesirable as the illegal level crossings.

'The order of the Board directed the railway companies to provide and construct a highway across their respective lines of railway at the east end of Dennison avenue, in the village of Weston, and reserved the question as to the protection of the said crossing for further consideration.'

November 13, 1907.

Application of the City of Winnipeg for leave to build a bridge over the Canadian Pacific Railway in the city, to be used as a public highway connecting Brown and Brant streets, in that city.

These streets are almost in the same line; the one on one side and the other on the other of the yard and tracks of the Canadian Pacific Railway Company.

Although the public were in the habit of crossing the tracks of the railway company near the place where the proposed bridge was sought to be put, and planking maintained there for convenience in crossing, it was not claimed that any highway ever existed over the land occupied by the railway company in the line of these two streets or either of them.

The railway company did not object to the proposed over-crossing itself. The question was whether the company should contribute to the cost of the work.

By section 237 of the Railway Act, when an application is made for leave to construct a highway across an existing railway 'the Board may, by order, grant such application upon such terms and conditions as to protection, safety, and convenience to the public as it may deem expendient, or may order that the highway be carried over or under the railway, or be temporarily or permanently diverted.....'

By section 59, 'When the board, in the exercise of any power vested in it by this Act or the special Act, in and by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used, or maintained, it may order by what company, municipality or person interested or affected by such order, as the case may be, and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used, and maintained.'

'2. The Board may order by whom, in what proportion, and when, the cost and expense of providing, constructing, reconstructing, altering, installing, and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use, or maintenance thereof, or of otherwise complying with such order, shall be paid.'

Judgment, Chief Commissioner Killam, concurred in by Mr. Commissioner Mills:

'While upon its face, section 59 appears to give the Board absolute jurisdiction to compel any company, municipality, or person interested or affected by the order to pay or contribute to the payment of such compensation, it cannot have intended that

the Board should exercise such discretion arbitrarily without reference to the respective rights of parties interested or affected or proposed to be affected.

'If the property were that of a private person, through whose lands the city could carry a highway without his consent, the city would ordinarily be liable to compensate the landowner for the property taken and for the injury caused by the severance of the remaining property. In some cases the legislation provides for an allowance for any advantage which the property owner may derive from the contemplated work, or that the cost of the same be assessed upon the lands of the parties interested in or benefited by the work

'The bridge now proposed to be erected can be of no benefit or advantage to the railway company. It will rest, in part, upon and thus occupy the surface of the company's lands, and it will extend through an upper space, which, by virtue of its ownership of the soil, is the property of the railway company. There seems to be no reason or principle upon which the railway company can be required to defray the cost of such a work or any portion thereof.

'I think that the city should have leave to construct the work at its own expense.'

November 15, 1907.

Re *Bell Telephone Company and Windsor Hotel Agreement.*

In the month of November, 1906, the Bell Telephone Company and the Windsor Hotel Company entered into an agreement for the installation of a telephone system by the telephone company in the Windsor Hotel.

As the telephone company's tolls had to be approved by the Board, the execution of the agdeement was left in abeyance until the Board should have had an opportunity to consider the agreement, in so far as it related to telephone tolls.

The main points as to which there could be considered to be any question, and with which the board dealt, were:—

1. The clause providing for exclusive use of the Bell telephone system in the building.
2. Rental of instruments.
3. Rates for local messages.
4. Long-distance rates.
5. Terms of agreement.

Judgment, Chief Commissioner Killam, concurred in by Mr. Commissioner Mills:

1. *Exclusive rights.*—I see no reason why the hotel company should not bind itself to take the Bell system only. No other is at present in sight, and the introduction of another would require considerable time. The Bell Telephone Company's rates being now subject to control by our Board, there seems to be no serious objection to such a stipulation.

2. *Rental of instruments.*—This is an agreement of a peculiar character. Very few of them are likely to come before the Board for consideration, and those that do will probably have different features. The size, situation of the hotel, number of rooms and of telephones will vary. I see no reason why the hotel company should not be allowed to agree to pay the rental stipulated in this proposed agreement. We should presume that the company is controlled by business men who are able to make their own agreements.

3. *Rates for local messages.*—The telephone company stipulate for a rate of 10c for connection. The impression that I have formed is that this rate, under the circumstances of the service, is not an unreasonable one. My present inclination is to the view that if telephone rates are to be in any respect reduced, that reduction should come, in the first place, from the annual charges to regular subscribers, and, secondly, from long-distance rates, leaving the 10c. rate for casual messages as at present; but

it would probably be wise to provide that this rate is to be subject to any reduction which the Board may at any time order.

4. *Long-distance rates.*—The agreement (par. 17) provides for payment of 'the telephone company's regular toll charges.' These charges must be made at rates approved by the Board, so that there can be no objection to this stipulation.

5. *Terms of agreement.*—I would provide that, after the period of ten years, any extension shall be subject to the approval of the Board.

I think that we may properly approve the agreement with the two conditions which I have mentioned:—

1. That the charge of 10c. for each connection had over any telephone hereby leased with the Montreal exchange subscribers of the telephone company shall be subject to reduction at any time by the Board.

2. That any extension of the term of the agreement after the expiration of ten years shall be subject to the approval of the Board.

November 23, 1907.

Re *The Robertson-Godson Company'c Complaint.*

The Robertson-Godson Company complained to the Board that they were assessed a class-rate by the Canadian Pacific Railway Company on a shipment of paving blocks from Edmonton to the Pacific coast, whereas the lumber rate should have applied, which meant, they alleged, a considerable loss to the company. The railway company took the position that the lumber rate did not apply, as that rate could only relate to those articles specifically mentioned in its tariff filed with and approved by the board, and that this list of articles did not include street paving blocks.

The complainants' contention was that paving blocks were nothing more than fir lumber, and, therefore, should be included in the classification. They asked the ruling of the Board as to whether their contention was correct or not, and, if correct, whether they were not entitled to a refund.

Held, that the Board had no jurisdiction to direct or authorize the railway company to make any rebate in the rates charged under tariffs lawfully existing when the goods were carried, and that the only action which the Board could take would be to require that paving blocks be included in the commodity tariff; but that this action could not affect past transactions.

November 29, 1907.

Re *Vancouver, Victoria and Eastern Railway and Navigation Company's Application to Expropriate Lands in the Municipality of Delta, B.C.*

In August, 1907, the Board made an order authorizing the Vancouver, Victoria and Eastern Railway and Navigation Company 'to divert the Ladner highway along the Fraser river, known as the River road, in the said municipality of Delta, to the extent and in the manner shown in pink as route No. 2 on the plan and profile on file with the Board.....; and to maintain, construct, and operate its railway along and upon the existing portions of the said highway between the points of diversion.'

On the 29th October of the same year, the railway company applied, under section 178 of the Railway Act, for authority to expropriate certain lands for the purpose of the diversion of the highway mentioned above, under the Board's order. The land sought to be taken was a strip coloured red on the plan accompanying the application, and was necessary for the highway along the route prescribed by the Board's order. The company's application stated 'that, by by-law dated the 12th day of November, 1906, the municipality of Delta gazetted a highway between the termini of the diverted highway and the land coloured red on the plan filed herein practically coincided with the said highway except where it is of a greater width than 66 feet, and then only as to the excess and also where it crosses the ravine on lot 16, group 2.'

The application also alleged 'that it is necessary, in order to construct the diverted highway in accordance with the order of the Board of Railway Commissioners for Canada, to take the whole of the land coloured red on the plans filed herein—where the land required is of a greater width than 66 feet the road crosses ravines or follows along steep hillsides—and the width shown is necessary in order to construct the said highway, and for no other purpose.'

Another of the parties whose property was sought to be taken filed answers stating merely that it was not necessary for the company to take the lands referred to in the application. By consent of the parties the application came on for hearing at Ottawa, when the question of the necessity for taking the land coloured red on the plan was not raised; but counsel for a number of the landowners requested that certain conditions be imposed upon the railway company. These conditions were referred to the railway company by its counsel, which refused to accept the terms, except one for allowing rights of crossing on foot over the railway to the river. The River road ran along the river bank in some places close to the foreshore ; in other places leaving small pieces of land between it and the river. The Fraser river opposite the place in question is a tidal navigable river. Counsel for the landowners stated that the township of Delta had passed a by-law for the diversion of the highway practically covering the diversion ordered by the board. The railway company claimed to have a grant from the provincial government of the foreshore along the diverted portion of the highway.

At a later hearing one of the conditions asked for by counsel for the landowners was expressly abandoned, and two others not really insisted upon. Those asked for were, first, a condition requiring the company to pay compensation to the landowners for the portion of land on which the railway was built, upon the basis that the land on which the railway runs reverts to the owners of the adjoining lands upon the closing of the highway. Condition two—that the company pay compensation to the owners of the land for the right of way over the diverted highway; and the third condition was one for certain crossings and the right to build and maintain landings and net houses on the company's right of way next the river and opposite the lands of the respective owners.

Judgment, Chief Commissioner Killam, concurred in by the Deputy Chief Commissioner Bernier on December 26, 1907.

Referring to the first condition sought to be imposed:

'It is not at all clear that such is the effect of the diversion; if so, the party in whom the land occupied by the old highway vests will naturally be entitled to compensation for the taking of his land by the railway company. If such is not the effect, then there is no reason why compensation should be given on such a basis. If the municipal by-law was sufficient of itself for the diversion of the highway and to close the old highway to public traffic, the question of the landowners' right to compensation must be determined by the local law and by the local courts. If it was not sufficient and the closing of the old highway is affected by the exercise of the company's powers under the Railway Act and the board's order, the landowners should be left to take such compensation as under the Railway Act they are entitled to. This application is one for taking a strip out of another portion of their lands, and it does not appear that any condition should be imposed not directly relating to the taking of the land for which authority is now sought.'

Referring to the second condition:—

'It is not necessary to impose a condition for that purpose. The parties whose lands are taken have a right to compensation under the Railway Act for the taking of their land and the injury done by severance of the remainder. This is admitted by both parties.'

Referring to the third condition :—

'As I have said, the railway company is willing that foot crossings should be allowed to these owners. Apparently the land is not suitable for crossing otherwise

than on foot, and it is reasonable that these parties should have crossings in the nature of farm crossings, particularly those whose holdings extend to the river side. These latter need no condition to enable them to have landings and net houses. As to those whose land does not extend across the highway, it is reasonable that they should have access to the water; but there seems to be no reason for imposing upon the railway company an obligation to give up for the purposes of landings or buildings any land not belonging to the parties whose lands they are taking. I think that the order authorizing the company to take the land applied for should be granted, with conditions that the foot crossings, to which Mr. Ritchie at the last hearing limited his request, shall be allowed by the company.'

Order, dated December 26, issued accordingly.

Judgment in dissent, Mr. Commissioner Mills:—

'I am strongly of the opinion that the Railway Commission should not open the way for law-suits, nor advise people to go to the local courts to determine and obtain their rights, unless it is really necessary to do so.

'Taking the case of six or seven poor fishermen on the banks of the Fraser river, in the township of Delta, B.C., I think it is cruel to send them to the local courts to settle the points at issue between them and the Great Northern Railway Company, when the problems submited can be solved and the suggested law-suits avoided simply by putting into the order for expropriation the terms and conditions on which the railway company can obtain the rights and privileges for which it has applied under section 178 of the Railway Act.

'It is possible that these concessions or conditions should have been imposed when the application for approval of location was under consideration; but I, for one, was not aware of the facts at the time; and I would rather vary the order approving of the location, if that is necessary, than send such people to the courts to obtain their rights. I maintain, however, that these rights can be secured by imposing conditions in the order now applied for.

'*As* nothing is gained by dissenting judgments, I have ventured to submit an alternative draft order embracing two conditions not yet approved of by my colleagues; and I wish to state briefly my reasons for asking that these conditions be imposed upon the applicant company.

'*First.*—As to the compensation of the owners of land, for the portions of their land which were formerly given for the river bank road, which portions the railway company has recently been authorized to take. The company contends that, inasmuch as it has to buy land for a new road on the hillside, it should not be required to purchase any portion or portions of the road which it is taking along the river bank. I think, however, that the claim of the landowners is a reasonable one, because they gave their land along the river bank without compensation, for the purpose of getting a level or comparatively level road in that locality. This road is now taken from them for the benefit of the railway company; they are deprived of the benefits which the grant of that portion of their land was made to secure; and a very crooked road at an elevation of 93 feet up the hillside is not equivalent for the road of which they are deprived.

'I think that any one who notices how crooked the proposed road on the hillside is and bears in mind that, according to the statement of our engineer, it involves an ascent of 93 feet above the level of the present road, will admit that it is not, in any proper sense, an equivalent for the latter; and that, therefore, the railway company should not only provide and construct the inferior high-level road, but pay the complainants for the portions of their land which were given for the comparatively level and much better road by the river.

'This is my reason for thinking that the request of the people set forth as condition 3 in the draft order submitted should be granted.

'*Second.*—Inasmuch as the men herein referred to are all fishermen depending upon access to the river for their livelihood, they should not be refused the right to construct nethouses and landing-platforms along the river bank. To refuse them this privilege is to drive them out of business, making the remainder of their land valueless and compelling them to go elsewhere. This, I think, is something which the board should not do; and, for that reason, I would suggest that they be each allowed to build a net-house or net-houses and a landing-platform or platforms on the right of way of the applicant company, where it comes to, or within 25 feet of, the Fraser river, provided he does not occupy more than 80 feet of space along the river bank and does not build, construct, or place any structure or thing within 25 feet of the centre line of the right of way of the applicant company.

'Application was made for permission to occupy, for such purposes, the land on the river bank, to within 20 feet of the centre line of the railway track; but, with a view to provide for the possibility of a double track, I have increased the space to 25 feet from the centre line of the right of way, allowing the applicants, for the length of 80 feet on each lot, to use the right of way for a width of only 25 feet (instead of 30 feet), wherever the said right of way comes within 25 feet of the river; and I am making this suggestion as a compromise, in the hope that it may be approved by my colleagues—granting the landowners the privilege of building and using net-houses and platforms as above, on condition that they keep distant 25 feet, instead of 20 feet, from the centre line of the right of wap of the railway company. (See sketch of right of way and double track line submitted herewith.)

The death of Chief Commissioner Killam having occurred before the above suggestions were considered, and the Deputy Chief Commissioner having since concurred in the judgment of the late Chief, I have to dissent from the said judgment and the order based thereon.

Re *Complaint C. R. Banks.*

This was a complaint against the Dominion Atlantic Railway Company, alleging that as a result of delay in forwarding a consignment of cornmeal shipped by the St. John Milling Company of St. John, N.B., to complainant at Torbrook Mines, in Annapolis county, province of Nova Scotia, complainant suffered a loss of 10 cents per hundredweight, amounting in all to $30; and applied to the board for redress.

Held, that the board had no power to award complainant damages for the delay; that the complaint was in respect of one single shipment, and there was nothing to indicate that such delays were frequent or that the investigation was necessary for the purpose of devising a remedy for a defective system; that the remedy of the party aggrieved was to be found by action in one of the regular courts; and referred complainant to subsection 7 of section 284 of the Railway Act.

January 23, 1908.

Re *Highway Crossings over Railways.*

If there is no established highway over the railway, the board has no power to compel the railway company to make and maintain such a crossing. The board's jurisdiction is confined to giving to the municipal authorities the power to carry and construct a highway across the railway.

Chief Commmissioner Killam.

January 28, 1908.

Re *Moor Lake Accident.*

This accident was the result of a head-on collision at Moor lake between the Canadian Pacific Railway Company's passenger train No. 8, coming east, and extra engine 1715, going west, on the night of November 14, 1907, near Moor lake, in the

province of Ontario, in which the engineer was killed and a number of passengers more or less seriously injured, and the mail car, with its entire contents, including a very large number of registered letters and articles and ordinary mail matter, were completely destroyed.

Application was made to board by the Post Office Department, and the representatives of the engineer, for a copy of the report of the board's inspector.

Held, that the inquiries and reports of its accident inspectors are made for the purpose of informing the board in the public interest only, and in order to enable the board to judge of the causes of accidents and the rules and precautions to be made and taken for the purpose of avoiding them in future, and not for the purpose of giving information to parties desirous of making claims against a railway company for injury to person or property; that this rule was adopted not only because the board did not consider that its function was to obtain information for the purposes stated, but also because the board did not desire that railway officials should be deterred from giving information to the board's officials through fear that it would be used in support of claims against the companies.

January 29, 1908.

Re *Complaint of J. Wilson* v. *Canadian Pacific Railway Company.*

Complainant's horses got on the track of the Canadian Pacific Railway Company between Nanton and Parkland, in the province of Alberta, at a public crossing, and were killed. It was alleged that there were no guards of any kind to keep the horses from getting on the track, and estimated his loss at $850.

The board took the matter up with the railway company, and was informed that proper cattle-guards had been installed at the crossing.

Held, that the board has no power to compel railway companies to pay claims for damages for cattle killed upon railway tracks, as the statute expressly provides that the remedy is to be by action in a court of competent jurisdiction; that the board's only function in this respect is to see that provisions of the statute respecting fences, cattle-guards, &c., are properly observed.

February 8, 1908.

Re *Basil H. Malaher's Complaint.*

Basil H. Malaher, of Marshall, in the province of Saskatchewan, the complainant, alleged that he had been overcharged the sum of $9.97 on the carriage of goods from Liverpool, *vit* Halifax, to Floydminster, the nearest station to Marshall. Under the bill of lading the sum of $20.94 was to be paid. The amount charged and collected by the agent of the Canadian Northern Railway Company at Floydminster was $31.90, making an overcharge, as alleged, of $9.97.

Held, Chief Commissioner Killam and Deputy Chief Commissioner Bernier, after inquiry into the subject-matter of the complaint, that the Canadian Northern Railway Company had received for carriage from Emerson, Man., to Marshall, in the province of Saskatchewan, only the lawful rate of 25 cents per 100 pounds; that the charge made to complainant for the whole carriage from Liverpool to Marshall, Sask., was in accordance with the lawfully existing joint through tariff, and that the board had no jurisdiction to enforce any special contract for rates other than those set out in the lawfully existing tariff, or to compel either the railway company or the steamship company to make any reduction from this charge; and that any relief to which the complainant would be entitled could only be obtained by action in the ordinary courts.

February 12, 1908.

Re *Application of the Village of Mannville, in the Province of Alberta, for Crossing the Canadian Northern Railway Company's Line of Railway.*

This was an application, under sections 252 and 253 of the Railway Act, for an order directing the Canadian Northern Railway Company to provide and construct a suitable street crossing where the railway company's railway intersects the village of Mannville, in the southeastern quarter of section 50, range 9, west of the fourth meridian.

Under 'The Village Ordinance' of the Northwest Territory Ordinances, cap. 72, 1905, no authority is conferred upon villages in the province of Alberta to open up highways across private lands.

Held, that the board had no power to compel railway companies to open up highways across their lands; the function of the board, under section 237 of the Railway Act, was to give leave to a municipality or other authority having power to open up new highways, to do this across a railway; but this legislation is based upon the view that the railway company's land has been devoted to a statutory use; and that, in the absence of statutory provision therefor, the municipality or other road authority could not construct a highway over the railway lands.

February 13, 1908.

Re *Robertson and Chatham, Wallaceburg and Lake Erie Railway Company.*

This was an application by Arthur K. S. McA. Robertson for the rescission of an order of the board granting leave to the Chatham, Wallaceburg and Lake Erie Railway Company to carry its line of railway upon and along certain streets in the city of Chatham. The applicant's objection related only to the portion of the railway to be carried along Queen street and to its location on the street opposite property of the applicant. Under the order, the railway was authorized to be located on the side of the street next the applicant's property, the centre line of the track to be nine feet four inches from the centre line of the street. The applicant asked that it be located in the centre of the street, and claimed that the approved location was very injurious to his property.

The plan showing the location of the railway in the city of Chatham was approved by the board, subject to the terms and conditions set forth in by-law No. 815 of the city of Chatham. This plan showed the railway to be apparently located along the centre of Queen street. The by-law referred to was one authorizing the city to lend to the railway company a certain sum of money, and provided, among other things, that before the work was commenced on any section or portion of the company's railway in the said city of Chatham, the plans setting forth the proposed location of the company's tracks were to be first submitted to the engineer of the city for approval, and should not be altered thereafter without the consent of the said engineer; and that no work should be done by the company upon any of the streets of the city until the engineer had approved of the location of the same.

By by-law No. 946 the company was authorized, 'subject to the terms of an agreement to be entered into between the corporation of the city of Chatham and the Chatham, Wallaceburg and Lake Erie Railway Company, to lay down and construct a street railway upon the following streets or portions of streets.' Among these was Queen street, from William street to the southern limit of the city. By the by-law it was provided that the location of the line of railway in any of the streets aforesaid should not be made until plans thereof showing the position of the rails, poles and wires were submitted to and in writing approved of by the city engineer and chairman of the industrial committee, or of such other committee as the council for the time being should appoint for the purpose.

By by-law No. 1013, reciting the previous by-laws, and that it was 'desirable to define the terms of the agreement to be entered into as aforesaid under the said by-

law No. 496,' many provisions were made respecting the company's railway, among which were the following:—

'(25) The location of the line of the said railway on the said streets, and the position of the rails, switches, turn-outs, and other works thereof, shall be shown upon plans, with figured dimensions showing the distance of all their works from the side lines of the streets, which shall be submitted to the said engineer and chairman of the industrial committee, or of such other committee as the council for the time being shall appoint for this purpose, and none of the said works shall be commenced until the said plans have been submitted to and approved of as required by section 9 of said by-law No. 946, and the same shall not be altered thereafter without the consent of the said engineer and chairman.'

By the indenture between the company and the city, reciting the several by-laws mentioned, the company accepted the by-laws and covenanted and agreed that it would in all things conform to, obey, perform, observe, fulfil and do all and every the terms, agreements . . . . in the by-laws contained, and would do and perform all matters and things which the by-laws provided to be done by or on behalf of the company, and would not do anything which the by-laws provided was not to be done by the company.

At the hearing at Chatham of the application of the company for leave to carry and construct its railway upon and along certain highways in the city of Chatham and in other municipalities, it was stated that, under by-laws 815 and 946, the city granted a franchise on certain named streets (among which was Queen street), and reference was made to the approval by the board of the location plan, but the proposed location of the railway upon the streets was not otherwise specified. The result of the hearing was that the order was to go subject to the filing of certain plans and the agreements. The plans subsequently filed showed a location on Queen street west of the centre line of the street.

Later, the board made an order granting leave to the company to carry and construct its railway upon, along and across certain named streets (among which was Queen street), as shown on the plan submitted, subject to the terms and conditions of the by-laws and agreement mentioned. The order not to issue until the plan had been first approved by the city.

Judgment, Chief Commissioner Killam: 'When the matter came before the board at Chatham in December, 1905, the board required to be satisfied, by production of the by-laws and agreements, that the necessary consent of the city to the carrying of the line along the streets had been given. When these by-laws and agreements came to be produced, it appeared that the locations upon the streets were to be fixed by officials of the city, and the board was furnished with evidence that these officials had fixed the location along Queen street as approved by the board's order.

It appears to me that it was quite competent for the board to give leave to carry the railway along a different portion of the street from that set out in the plan to which the application referred, without requiring the making of a new application—and this, whether the change was made at the request of the railway company or against its will.

It appears to me, also, that it was competent for the board to give leave to carry the railway along the street upon a location different from that shown by the location plan approved by the board. In approving a location plan, the board does not usually determine precisely where a railway shall cross another railway, or where it shall run across or along a highway; and when the application to cross another railway, or to cross or run along a highway, comes before the board, it might allow this at a different place or upon a different location from that laid down upon the approved location plan without requiring another location plan to be submitted or an application to be made to authorize a deviation; and the board's order in such a case is sufficient to authorize the necessary deviation.

When the order in question was made, the board had been furnished with the evidence of the location upon Queen street, fixed by the proper city officials under the by-law for this railway. The formal plan embodying this conclusion had not reached the board, but the board might well determine upon the material that the railway should be allowed to be carried along the street as approved by the city officials, and it might well entrust to its secretary, to whom the order was to be forwarded to be sealed and issued, the duty of examining the plan and ascertaining that it indicated the line as thus approved. I think the board could thus make the order, although when it was signed the plan was not yet in the secretary's hands, but to be issued after the receipt of the plan and the making of the comparison which the sceretary was directed to make.

The company's application for leave to place its railway upon the public street was not a 'complaint,' which, under section 20, the board was bound to hear and determine in open court on application by any party to it. But the request for a hearing was not one which the board would ordinarily refuse, and in this case, in view of the agreement for a settlement of the injunction proceedings, the order should not have been made without such a hearing. All of the parties—the city, the railway company, and Robertson—have now been heard and have adduced such evidence as they saw fit upon the question of the location of the railway along Queen street in front of Robertson's property. The railway has been constructed along the side of the street in accordance with the location prescribed by the city engineer and chairman of the committee except opposite Robertson's property, where it has been temporarily carried along the centre of the street. The chief engineer of the board has reported that he is 'of opinion that, as the present road is a country road and not paved, the track should go as the plan originally intended—to one side; but that, if in the future Queen street should be paved as similar streets in Chatham, the tracks could be moved to the centre at very little expense.'

I think it is clear that the placing of the railway along the centre of the street would interfere unduly with the use of the street, and be injurious to the public interest. On the other hand, I have no doubt that the placing of the railway where the company and the civic officials desire to place it would injuriously affect Robertson's property. I am, however, of opinion that the construction and operation of the railway will materially benefit the property, and that the property, with the railway upon the side of the street, will be more valuable than if the railway should not be, or had not been, constructed at all. At present, the land is wholly vacant; a few scattered dwellings are to be found on the other side of Queen street, and there is a probability that the city will grow in that direction and that there will at some time be a demand for lots in that locality for residences, factories, warehouses, &c. The opportunity to procure spurs from this railway should enhance the value for industrial or commercial purposes. While there is not at present a frequent passenger service upon the railway, this must naturally be increased with the growth of the city. At one time Robertson proposed to widen the street in front of his property by giving up a strip along it for the purpose. This fact affords some evidence that such a use of this strip would leave him with property not less valuable than the whole would be if he retained the strip. If he should now widen the street in this way, the railway would then be along the centre of the street, and the remaining property, with the advantages afforded by the railway, would probably be more valuable than the whole is at the present time.

It appears to me that, if we were now hearing the original application, and had before us the evidence which has been given and the arguments advanced on Robertson's behalf, we should still make the order unconditionally, giving the company leave to carry the railway along the street as is proposed by the company and the city.

Judgment, Deputy Chief Commissioner Bernier: 'In this case two principles are involved:

'1st. The control, as trustee for the public, of the streets within the limits of the city of Chatham, which, by by-laws, has determined that the electrical road of the

Chatham, Wallaceburg and Lake Erie should be located according to the decision of its officials.

'2nd. The claim for damages to property owners alongside the streets where the said electric road was to be constructed and operated. I have already expressed my views with regard to the absolute power of the municipalities to fix and determine the terms and conditions with which the railway intended to be constructed would have to comply; the board to conform its order accordingly. As to the question of compensation or damage, it rests entirely between the immediate landowners and the municipality which has chosen the location of the railway, and to be determined by the ordinary courts of justice.

'The board is not in a position to fix the compensation, as the damage cannot be appraised without the intervention of the municipality and the parties who may suffer by its decision; such power, in my opinion, not having been granted to the board.

'My opinion, therefore, is that the order should go according to the decision of the cit y of Chatham, leaving to the interested parties their recourse to the ordinary tribunals.'

Judgment in dissent, Mr. Commissioner Mills:

The council of the city of Chatham, wishing to have the Chatham, Wallaceburg & Lake Erie Railway run through the city, passed a by-law granting the said company leave to lay its track along the centre of Queen street, in the said city.

After a time, the city, or its aldermen, came to the conclusion that the said track on the centre of Queen street would likely interfere with farm traffic coming into the city along the said street; so a new council at a later date, passed a resolution directing the said company to lay its track, not in the centre of the said street, but on the west side thereof, 9 feet 4 inches distant from the centre, the street being 66 feet wide.

It was alleged, and not denied, at the hearing, that, according to the city by-laws, a space 21 feet wide had to be left on each side of the street for sidewalk, boulevard, curb, and gutter; and the plan approved by order of the board dated the 15th July, 1907, places the railway track 21 feet 4 inches from the west side of the street, leaving only four inches between the track and the gutter. With such an arrangement, it is manifest that horses with vehicles cannot pass or be tied between the railway track and the west side of the street; and the owner or owners of land on the west side of the street will have no access by vehicles to the front of their property.

Mr. A. K. S. McA. Robertson owns land on the west side of the said Queen street. His land has a frontage of 3,300 odd feet on the street; in fact, it extends nearly the whole distance throughout which the railway is to run on the side of the street, and the only way to make this portion of his property accessible will be for him to add to the street a strip of his own land, 9 feet 4 inches wide, throughout the whole length of his frontage, viz., 3,300 odd feet.

Even if the city should change its by-laws so as to dispense with a boulevard on each side of the street, it would leave only 15 feet for a driveway including the gutter, which everyone of any experience knows is not sufficient for the purpose; so it is clear to my mind that Mr Robertson's property will be materially injured by the running of the railway along the west side of the street in front of his land.

It is true that the property in question is vacant land at the present time; but it is land within the city limits—land which has paid and is paying heavy city taxes; and in case it is decided that it is a fair and reasonable thing to have the railway run so near the said land as to prevent vehicular access to the front thereof, for a distance of 3,300 odd feet, it is morally certain that a great portion of it will *remain* vacant for years to come unless Mr. Robertson is prepared to widen the street at his own expense.

If the Chatham, Wallaceburg and Lake Erie Railway were a street Railway proposing to give to Mr. Robertson and others in the city of Chatham a street railway service and to confer such benefits as usually result from the running of a street railway in a city, I would be disposed to say that the advantage of such a railway beside Mr. Robertson's land might be regarded as offsetting the damage which will

result from placing the track so close to his property as to prevent vehicular access to the portion which fronts on the streets; but the said railway is not a *street railway* in the city of Chatham or anywhere else, but a rural electric railway proposing to run once every hour, within certain time limits, for freight and passengers, from Wallaceburg, south, through Chatham, to Lake Erie. It will certainly damage the front of Mr. Robertson's property; and it is doubtful whether it will do much, if anything, to increase the value of land there or anywhere else in the city, beyond what the Grand Trunk and the Canadian Pacific lines have already done.

Why should the corporation of the city of Chatham, for its own benefit, in order to accommodate the traffic which it wishes to have along Queen street, place a private citizen like Mr. Robertson at a disadvantage as compared with citizens on the opposite side of the street. And why should it make it necessary for him to add a portion of his property to the street without allowing him any compensation therefor?

Therefore, I think the order of July 15, 1907, should be confirmed and allowed to stand *only on condition* that Mr. Robertson is allowed reasonable compensation, say, $900 for the strip of his land (9⅓ feet by 3,300 feet), which he will have to add to the street in order to get vehicular access to the front of his property, and thus make it saleable for either residential or business purposes; and as the railway was first located on Queen street by permission of the city, and the location was changed from the centre to the side of the street by the city, and solely for the benefit of the city, the city should pay the said compensation; but the question of payment is one which must be left to the city and the company to settle between themselves.

Ottawa, November 23, 1907.

APPENDIX E.

INFORMAL COMPLAINTS FILED WITH THE BOARD DURING THE YEAR ENDING MARCH 31, 1908.

242. Excessive rates charged by the United States Express Company on shipment for John Downie, Port Stanley, Ontario.

243. Refusal of Canadian Pacific Railway to furnish cars for the movement of homesteaders' effects to points on the Canadian Pacific Railway.

244. Delay to shipment of cattle via Grand Trunk Railway to Dunnville, Ont.

245. Failure of Canadian Pacific Railway to deliver consignment of metal from Port Arthur, Ont., to Montreal, P.Q.

246. Location of railway through Victoria Park, St. Lambert, P.Q.

247. Drainage on Grand Trunk Railway right of way, on lot 15, concession 4, township of Blackwater; complaint of J. R. Sorley.

248. Dangerous condition of highway crossing of Canadian Pacific Railway, municipality of St. Louise, Man.

249. Failure of Canadian Northern Railway to deliver at various points shipments of logs, ties, lumber, telegraph poles, &c., account J. L. Highland & Co.

250. Insufficient car supply by railways to move lines and builders' supplies to points in Ontario.

251. Diversion of Canadian Pacific Railway (Crow's Nest Pass) located line near Pincher Creek, Alta.

252. Inadequate facilities provided by the Grand Trunk Railway in and about their station at St. George, Ont.

253. Delay to consignment of household goods via Canadian Northern Railway and Canadian Pacific Railway to Maybrook, Sask.

254. Refusal of Canadian Pacific Railway to transmit telegrams to passengers in accident at Brunel, Ont.

255. Refusal of Canadian Pacific Railway to grant special rates on settlers' effects consigned to Goose Lake via Regina, Sask.

256. Freight rates on tan bark between North Bay and Soo, Michigan, via Canadian Pacific Railway.

257. Classification of blankets, knitted underwear, woollen socks, &c.

258. Condition of roadbed and rolling stock, &c., of Canadian Northern Railway (Morris-Somerset line).

259. Delivery limits of express companies in Ottawa, Ont., of express south of the Grand Trunk Railway (Glebe).

260. Complaint *re* Canadian Northern Railway to make transfer of second-class passenger traffic from eastern points via Canadian Pacific Railway and Port Arthur, Ont.

261. Refusal of Canadian Pacific Railway and Grand Trunk Railway to furnish second-class passenger rates between Port Arthur, North Bay, Toronto and Ottawa, Ont.

262. Delay in delivery of two shipments of matches from Hull to Herouxville and St. Tite, P.Q., via Grand Trunk Railway and Canadian Northern Railway.

263. Express rates via Canadian Northern and Dominion Express Companies.

264. Damage to goods in transit via railways to Hamilton, Ont.

265. Delay in handling of immigrant traffic by Canadian Northern Railway from Winnipeg to Borden, Sask.

266. Delay to shipment of household goods via Canadian Northern and Canadian Pacific Railways from Maymont, Sask., to Vancouver, B.C.

267. Detention to shipment of horses from London, Ont., to Brandon, Sask., on account of Lord's Day Act.

268. Insufficient fire protection provided by Canadian Northern Railway in Saskatchewan; complaint of Radison board of trade.

269. Insufficient car supply for movement of shipments from Montreal, P.Q., via Canadian Pacific and Grand Trunk Railways.

270. Delay to consignment of butter and cheese to Montreal, P.Q., from various shipping points via Canadian Pacific and Central Vermont Railways.

271. Failure of Michigan Central and Toronto, Hamilton and Buffalo Railways to make connection at Waterford, Ont., on newspaper traffic for points in that district.

272. Refusal of Canadian Pacific Railway to accept shipments from points on Prince Albert branch.

273. Delay to shipment of wheat via Canadian Pacific Railway from Fort William.

274. Refusal of Canadian Northern Railway to issue through tickets to points on the Canadian Pacific Railway; refusal to make connection with Canadian Pacific Railway at Regina, Sask., and to provide proper chute for loading and unloading of cattle.

275. Refusal of agent of Père Marquette Railway at Dresden, Ont., to give clear receipt for goods.

276. Condition of roadbed of Canadian Northern Quebec Railway (Montford and Garneau branch). Excessive freight and express rates between Montreal and Weir, P.Q., and local points.

277. Delay by Grand Trunk and Canadian Pacific Railways in forwarding freight shipments from Toronto, Ont.

278. Delay in shipment of gunpowder from Ste. Adèle to St. Hughes, P.Q.

279. Freight rates of Canadian Pacific Railway to and from Moosejaw, Sask.

280. Refusal of the Canadian Express Company to bill through to Leamington, Ont., via American and United States Express Companies.

281. Delay to shipment of seed grain from Winnipeg to Wabamun, Alberta.

282. Increased freight rates on grain from Ontario points to seaboard.

283. Excessive express rates of Canadian Northern Railway, Winnipeg to Saskatoon.

284. Excessive express rates and unfair classification of express companies to western Canada points.

285. Condition of roadbed of Central Vermont Railway between Stanbridge and Frelighsburg, P.Q.

286. Refusal of Grand Trunk Railway to grant through rates from British ports to Bluebonnets, P.Q.

287. Improper handling of consignment of settlers' effects and live stock to western Canada.

288. Improper handling of consignment of settlers' effects from Brooklin, Ont., to Dryden, Ont.

289. Overcharge in express rates on grain by Père Marquette and Michigan Central Railways.

290. Demurrage charges assessed by Grand Trunk Railway on car of steel from Hamilton, Ont.

291. Inadequate train service on Lyleton branch of the Canadian Pacific Railway.

292. Insufficient car supply by Canadian Northern Railway for shipments of timber, &c.

293. Inadequate accommodation provided by the Canadian Northern Railway at Lamont, Alberta.

294. Seizure of domestic coal by railway companies.

295. Loss of box of household effects shipped by Canadian Pacific Railway from Deloraine, Man., to Wolsely, Sask.

296. Fire caused by locomotives on Nelson and Fort Shephard Railway.

297. Proposed increase in rates of express companies.

298. Excessive charges by Dominion Express Company on express traffic in the Northwest provinces.

299. Condition of station of Canadian Northern Railway at Laurier, Man.

300. Elevating and loading charge of 2c. per 100 charged by the Grand Trunk Railway at Goderich.

301. Condition of roadbed of Grand Trunk Railway between St. Louis and Aubrey stations, P.Q.

302. Condition of drainage, fences, gates and culverts along right of way of the Quebec, Montreal and Southern Railway through the parish of St. Damase, county of St. Hyacinthe, P.Q.

303. Service and rates charged by the Bell Telephone Company in the city of Montreal, P.Q.

304. Inadequate car supply by Canadian Northern Railway on shipments from Swan Lake, Man.

305. Mail service furnished by the Grand Trunk Railway to Parry Sound, Ont.

306. Condition of fences along right of way of the Brockville, Westport and Northwestern Railway, near Delta, Ont.

307. Freight rates of Canadian Pacific and Canadian Northern Companies to and from Joliette, P.Q.

308. Freight rates charged by the Grand Trunk Railway from Depot Harbour to Brule lake, Ont.

309. Train service of the Grand Trunk Railway on Welland branch.

310. Freight rates of Grand Trunk Railway on milk shipments from Huntingdon, P.Q.

311. Condition of bridges of Central Vermont and Canadian Pacific Railways over Richelieu river.

312. Passenger rates of Grand Trunk Railway, Montreal, to Lennoxville, P.Q.

313. Express rates of Dominion Express Company between Winnipeg and Cowley, Alta.

314. Overcharge on shipment of freight by Canadian Northern Railway to Battleford, P.Q.

315. Failure of Grand Trunk Railway to supply cars for movement of express traffic prior to increase in express rates.

316. Insufficient protection at farm crossings of Canadian Northern Railway and improper fencing and speed of trains passing near Dauphin, Man.

317. Shunting of cars by the Grand Trunk Railway across Front street, Orillia, Ont.

318. Overcharge by Canadian Pacific Railway on shipment of bull from Three Rivers, P.Q., to Quebec city.

319. Insurance deducted by Grand Trunk Railway from salary of employee and subsequent dismissal for failure to subscribe to insurance fund.

320. Overcharge by Canadian Pacific Railway on excess baggage from Toronto, Ont., to Strathcona, Alberta.

321. Complaint of St. Maurice and Champlain Telephone Company *re* contract of Portneuf Telephone Company with Bell Telephone Company.

322. Delay in delivery of freight by Canadian Pacific Railway after arrival in Montreal, P.Q.

323. Passenger rates charged by Canadian Northern Railway from Valparaiso, Sask.

324. Express rates to and from Comber, Ont.

325. Express rates to and from Brantford, Ont.

326. Refusal of Canadian Pacific Railway and Dominion Express Company to carry fish on passenger trains from Nipigon, Ont.

327. Obstruction of streets in the town of Iberville by the Quebec, Montreal and Southern Railway.

328. Rates of telegraph companies from Cowley, Alta.

329. Failure of railways to furnish cars for movement of settlers' effects from Ringbo, Man., to Watson, Sask.

330. Passenger and freight rates charged through Canadian territory by Michigan Central and Père Marquette Railways.

331. Blocking of streets and highways by Grand Trunk and Michigan Central Railways in town of Hagersville, P.Q.

332. Discrimination by express companies in rates on fruit from Niagara district to St. John, N.B.

333. Failure of Quebec, Montreal and Southern Railway to supply cars for loading cattle at Henryville, P.Q. Delay in delivery of express traffic at Henryville, P.Q.

334. Congestion in freight traffic at Mile End and Outremont, Que.

335. Discrimination by express companies in rates on fruit from Niagara district to St. John, N.B.

336. Alleged discrimination by Victoria, Vancouver and Eastern Railway in providing facilities at Sidley, B.C.

337. Delay to shipments via Canadian Pacific Railway to northwestern points from Ottawa, Ont.

338. Failure of Canadian Northern Railway to pay employee wage due as boilermaker at Craig, Sask.

339. Inadequate car supply by Canadian Pacific Railway for shipment of hay from Crombies, Ont., to Toronto, Ont.

340. Excessive freight rates on seeds and pineapples by Canadian Pacific Railway to Winnipeg, Man.

341. Loss of cattle on Canadian Northern Railway at Laurier, Man., through failure of railway to fence right-ofway.

342. Condition of cattle guards on railways at Cowley, Alta.

343. Inadequate car supply by Vancouver, Westminster and Yukon Railway at Burnaby Lake, B.C.

344. Express rates of Dominion Express Company and freight rates of Canadian Pacific Railway on milk shipments in British Columbia.

345. Freight rates charged on beer in carload lots from Walkerville to Sudbury as against Soo, Ont.

346. Complaint of excessive freight rates charged on a horse shipped from St. John, N.B., to Strathcona, Alta.

347. Increase in rates via Canadian Pacific Railway from Winnipeg, Man., to Kootenay points.

348. Excessive freight rates charged by Alberta Railway and Irrigation Company and Canadian Pacific Railway on seed grain from Cardston to Cowley, Alta.

349. Freight rates charged by Canadian Pacific Railway on sand from Sandusky, Ohio, to Chatham, Ont.

350. Condition of roadbed of Canadian Pacific Railway Company's St. Rose branch.

351. Discrimination in freight rates on flour from Mile End, P.Q., to Maritime Provinces.

352. Dangerous condition of Hornby street crossing of Michigan Central Railway at Springfield, Ont.

353. Refusal of Canadian Express Company to accept shipments of cream at town office, requiring the shippers to forward shipments to station office; also express rates charged from Bowmanville, Ont.

354. Overcharge on shipment of freight in bond from Liverpool, Eng., to Duluth, Minn., via Canadian Pacific Railway.

355. Failure of Canadian Northern Railway to fence its right of way near Lumsden, Sask.

356. Delay in delivery of Canadian Northern Telegraph messages from Saskatoon to Melfort, Sask.

357. Delay in delivery of shipment of household goods by Canadian Pacific Railway from Maumee, Ohio, to Maymont, Sask.

358. Excessive charges on express traffic by Dominion and Canadian Express Companies from Montreal.

359. Demurrage charges of Canadian Northern Railway on carload of windows from Edmonton, Alta., and a car of lumber from Barrow, B.C.

360. Discrimination in rates charged by Grand Trunk Railway for shipping, handling and conveying of wheat, Georgian Bay ports to Montreal.

361. Overcrowding and delay on passenger trains on St. Lawrence and Adirondack Railway; also class of engines used in moving traffic.

362. Inadequate accommodation provided by the Canadian Pacific Railway on passenger trains between Regina and Qu'Appelle, Sask.

363. Delay in shipment, also excessive freight rates charged by railways on consignments to Almonte, Ont.

364. Ocean freight rates from British ports to Montreal, P.Q.

365. Excessive freight rates charged by Intercolonial Railway on ties from points in Mexico.

366. Excessive express rates charged by Dominion Express Company on buggy shipped from Alexandria, Ont, to Sudbury, Ont.

367. Delay in delivery of freight at Toronto, Ont., after arrival, by Canadian Pacific Railway.

368. Damage and loss by pilferage to goods in transit by Grand Trunk Railway to Hamilton, Ont.

369. Blocking of water course by Grand Trunk Railway, causing flooding of property at Coteau Station, P.Q.

370. Improper fencing of right of way by Canadian Pacific Railway at Braeside, Ont., resulting in loss of cattle.

371. Passenger rates of Canadian Pacific Railway from Winnipeg to St. John, N.B.

372. Failure of Canadian Pacific and Grand Trunk Railways to provide connection between their passenger trains for the accommodation of their Brockville-Ottawa traffic.

373. Loss of trunk and keg of liquor from Europe shipped via Canadian Pacific Railway to Bonne Madone, Sask.

374. Excessive freight rates charged by Alberta Railway and Irrigation Company to Fort William, Ont.

375. Passenger rates on Alberta Railway and Irrigation Company from Spring Coulee to Lethbridge, Alta.

376. Excessive freight rates charged by Grand Trunk Railway and Montreal Park and Island Railway on coal traffic from Montreal wharf to Cartierville, P.Q.

377. Failure of Canadian Northern Railway to properly fence right of way near Togo, Sask., resulting in loss of horses and cattle by settlers.

378. Overcharge by Grand Trunk Railway on shipment of spokes, Corinth, Mississippi, to Gananoque, Ont.

379. Discrimination in freight rates via Canadian Pacific and Grand Trunk Railways from Cache Bay, Burk's Falls and Parry Sound to Copper Cliff.

380. Failure of Canadian Pacific Railway to supply cars for movement of grain traffic from Newdale, Man.

381. Failure of Canadian Northern Quebec Railway to provide farm crossing in parishes of St. Jerome and St. Sauveur, P.Q.

382. Excessive freight rates charged by Atlantic and Lake Superior Railway on cheese shipments from Maria to Matapedia.

383. Increased freight rates on Canadian Pacific Railway on tankage from Montreal, P.Q., to St. John, N.B.

384. Excessive freight rates of Canadian Northern Railway on sand to Winnipeg, Man.

385. Inadequate accommodation provided by Canadian Northern Railway for passengers and freight traffic at Fort William, Ont.

386. Passenger train service on Canadian Pacific Railway west of Fort William, Ont.

387. Condition of crossings, fences, watercourses and culverts on the Quebec, Montreal and Southern Railway in the parishes of St. Angele de Monnoir, P.Q.

388. Failure of the Canadian Pacific Railway to fence right of way between Wolseley and Sintalula, Sask., and consequent loss of cattle.

389. Failure of the Grand Trunk Railway to provide proper cattle guards at Sunbridge, Ont., and resultant loss of stock on right of way.

390. Discrimination in freight rates on live stock by the Canadian Pacific and Grand Trunk Railways to Montreal, Que.

391. Loss of cattle at Pinewood, Ont., through failure of Canadian Northern Railway to fence right of way.

392. Protection of crossing by Grand Trunk Railway on public road north leading into Alexandria, Ont.

393. Improper placing of cars of lumber on siding at Vancouver, B.C., shipped by Vancouver, Westminster and Yukon Railway.

394. Failure of the Canadian Pacific Railway to deliver a machine shipped from Montreal, Que., to Windsor, Ont.

395. Minimum weights charged by railways on sheep and lambs to Buffalo, N.Y.

396. Inadequate train service of Canadian Pacific Railway from Murillo to Port Arthur and Fort William, Ont.

397. Inadequate train service of the Grand Trunk Railway between Whitley and Toronto, Ont.

398. Inadequate passenger train service and rolling stock on Central Vermont Railway between Montreal and Granby, Que.

399. Excessive rates charged by railways on high explosives in province of British Columbia.

400. Improper drainage on Grand Trunk Railway right of way on the north side of Queen street east, Strathroy, Ont.

401. Condition of roadbed between Mile End, Montreal, Que., and St. Jerome, Que.

402. Excessive freight rates charged by Canadian Pacific Railway on paving blocks from Vancouver, B.C., to Edmonton, Alta.

403. Minimum carload freight rates charged by railways in Canada on lambs to Buffalo, N.Y.

404. Freight rates on export cheese and other traffic to Montreal, Que.

405. Failure of the Canadian Pacific Railway to provide night operators at Bobcaygeon, Ont.

406. Delays to shipment of freight in transit by the Canadian Northern and Canadian Pacific Railways at Mundare, Alta.

407. Drainage on Canadian Pacific Railway Company's right of way at Woodbridge, Ont.

408. Inadequate car supply of the Canadian Pacific Railway for shipment of lumber from Braeside, Ont.

409. Failure of the Canadian Pacific Railway to make payment for loss of car of oats wrecked near Crawford, Alta.

410. Delay in delivery of shipment of two rolls from Toronto, Ont., to Armstrong's Corner, N.B., by the Canadian Pacific Railway.

411. Excessive rates charged by express companies on shipments to and from Prince Albert, Sask.

412. Excessive freight rates charged on shipment of hay, from Malmaison, Que.

413. Inadequate car supply by the Grand Trunk Railway for shipment of hay from Centralia, Ont.

414. Inadequate car supply by the Canadian Pacific Railway for movement of traffic from district of Pense, Sask.

415. Loss of cattle from failure of the Canadian Pacific Railway to provide proper cattle-guards and fences at Mackey, Ont.

416. Condition of highway crossings and cattle-guards on Canadian Northern Railway in municipalities of Tache and Springfield, Man.

417. Inadequate car supply by the Grand Trunk Railway for movement of traffic from Hanover, Ont.

418. Inadequate car supply by the Canadian Pacific Railway and Great Northern Railway for shipments from St. Barthelemi, Que.

419. Excessive demurrage charges assessed by the Grand Trunk on two cars of iron to Hamilton, Ont.

420. Excessive passenger rates of the Canadian Pacific Railway on its steamers on Kootenay and Arrow Lakes.

421. Delay to traffic arriving via Grand Trunk Railway at Pointe St. Charles yard, Montreal, Que., through insufficient facilities for unloading freight.

422. Excessive freight rates charged by the Canadian Pacific Railway on flour from western points to Murillo, Ont.

423. Delay in handling passenger trains by the Canadian Pacific Railway between Cowley, Alta., and Nelson, B.C.

424. Overcharge by Boston and Maine Railway on car of oats from Jeannett's Creek to Lennoxville, Que.

425. Inadequate car supply of the Canadian Pacific Railway at Point Fortune and McAlpine, Que.

426. Failure of the Grand Trunk Railway to properly place cars on siding at Mile End, Que., for delivery to consignees.

427. Improper handling of passenger traffic on Great Northern Railway from Phœnix, B.C.

428. Location of Canadian Pacific Railway Company's station at Mission, B.C.

429. Lack of first-class accommodation on Wabash Railway trains Nos. 4 and 6 from Windsor to Chatham, Ont., and eastern points.

430. Refusal of the Canadian Pacific Railway to extend time limit on return ticket from Willows, Sask.

431. Inadequate freight train service of the Grand Trunk Railway from Ottawa to Parry Sound.

432. Position of switch of Grand Trunk Railway at Hunter street, Hamilton, Ont.

433. Minimum carload weights on lambs via Canadian railways to Buffalo, N.Y.

434. Delay in delivery of shipments on stereotype plates by the Canadian Pacific Railway from Montreal, Que., to Regina, Sask.

435. Minimum weights charged by Grand Trunk Railway on lambs shipped in double-decked cars.

436. Discrimination in connection with shipments of high explosives on London division, Michigan Central Railroad.

437. Charge made by agents of Dominion Express Company for making out freight bills on goods being returned by freight instead of by express.

438. Non-delivery of shipment of metal from Saskatoon to Montreal, Que., by the Canadian Northern Railway.

439. Inadequate car supply of the Canadian Pacific Railway for shipment of wheat from Belle Plaine, Sask.

440. Failure of railway to provide car supply for movement of freight traffic from Belleville, Ont.

441. Shortage in weight on coal shipments arriving at destination via Canadian railways in open cars.

442. Excessive freight rates charged by Grand Trunk Railway on scrap iron to St. George, Ont.

443. Excessive freight rates charged by railways on lake and rail traffic from Welland, Ont., to Lake Superior points, Port Arthur, Fort William, Duluth, Minn.

444. Loss of property on account of fire started by Canadian Pacific Railway locomotive, Wowota, Sask.

445. Inadequate car supply of the Canadian Pacific Railway on shipment of sand to Hamilton, Ont.

446. Shortage in weight of cars arriving via Canadian railways at destinations.

447. Blocking of crossing by Grand Trunk Railway trains at Branch street, Burlington Junction, Ont.

448. Excessive freight rates charged by the Alberta Railway and Irrigation Company on car of oats from Cardston to Lethbridge, Alta.

449. Inadequate car supply of the Grand Trunk Railway Company from St. Mary's, Ont.

450. Condition of cement culverts of the Grand Trunk Railway on lots 50 and 51, Point Clair, near Lakeside station, Que.

451. Export freight rates charged by Canadian railways from Picton, Ont., to the seaboard.

452. Conditions exacted by the Canadian Pacific Railway in form of release of responsibility on account of freight shipped in heated freight cars.

453. Train service of the Canadian Pacific Railway to and from Kamloops, B.C.

454. Insufficient cattle-guards provided by the Canadian Pacific Railway at crossing mile 61, and consequent loss of cattle between Norton and Parkland, Alta.

455. Excessive freight rates charged by the Atlantic and Lake Superior Railway at Ruisseau Leblanc, Que.

456. Inadequate car supply of the Canadian Northern Railway for movement of flour from Swan Lake, Ont., to points in the province of Quebec.

457. Excessive freight rates of the Grand Trunk Railway on shipment of hemlock from Sprucedale to Toronto, Ont.

458. Loss on shipment of dust collector held in freight shed, and where fire occurred, and refusal of railway to compensate.

459. Loss on shipment from Wawanesa to Owen Sound by Canadian Northern and Canadian Pacific Railways.

460. Shortage in coal shipment by the Canadian Pacific Railway at Regina, Sask., and refusal of Canadian Pacific Railway to entertain claim.

461. Condition of drainage along right of way of the Toronto, Hamilton and Buffalo Railway in township of Saltfleet.

462. Demurrage on two cars of oil by the Canadian Pacific Railway, Toronto, Ont.

463. Dangerous condition of crossing of the Toronto, Hamilton and Buffalo Railway at Lee Mountain road, township of Saltbeet, Ont.

464. Inadequate train service of the Canadian Pacific Railway to and from Kamloops, B.C.

465. Freight rates charged by railways on oranges from California points to Regina, Sask.

466. Inadequate car supply of the Canadian Pacific Railway for shipments of apples from Walkerton, Ont.

467. Loss on shipment of apples via Canadian railways frozen in transit to St. John, N.B.

468. Excessive freight rates charged by railways on shipments of aerated waters.

469. Loss on shipment of posts by Canadian Pacific Railway from Sleeman, Ont., to Lyleton, Man.

470. Blocking of Broadway street by trains of the Canadian Northern Railway at Portage la Prairie, Man.

471. Discrimination by the Canadian Pacific Railway in favor of Moncton and Halifax shippers against merchants of St. John, N.B., on freight traffic.

472. Failure of the Grand Trunk Railway to provide connection between its passenger trains at Scotia Junction, Ont.

473. Non-delivery of piano shipped via Canadian Northern Railway from Davidson, Sask., to Lowell, Man.

474. Delay by the Grand Trunk Railway in handling of freight traffic between Montreal and Sherbrooke, Que.

475. Failure of the Grand Trunk and Canadian Pacific Railways to provide proper train connections at Harriston, Ont.

476. Failure of the Grand Trunk and Canadian Pacific Railways to provide proper train connecteions at Peterborough, Ont.

477. Irregular passenger train service provided by the Central Vermont Railway between Chambly, Marieville, St. Cesaire, Granby and Waterloo, Que.

478. Lack of proper station accommodation provided by the Grand Trunk Railway at Coteau Landing, Que.

479. Inadequate car supply by the Canadian Pacific Railway on shipments from Toronto, Ont.

480. Inadequate passenger traffic accommodation by the Canadian Pacific Railway at Kemptville, Ont.

481. Shortage in shipment of household effects by Canadian Pacific Railway from Toronto to Calgary, Alta.

482. Whistling of locomotives of the Grand Trunk and Canadian Pacific Railways at night in town of Westmount, Que., and annoyance to residents.

483. Express charges of the Dominion Express Company on shipments from Worcester, Mass., to Calgary, Alta.

484. Inadequate train service of the Canadian Pacific Railway from Strassburg to Lanigan, Sask.

485. Removal by the Canadian Pacific Railway of planks at railway crossing in village of Mortlach, Sask.

486. Excessive freight rates charged by the Atlantic and Lake Superior Railway on sleigh from Nouville, Que.

487. Excessive charges of the American Express Company on box from Montreal to Waterford, Ont.

488. Condition of the Canadian Pacific Railway Company's station at Streetsville Junction, Ont.

489. Condition of the Grand Trunk Railway crossing at Gordon street, Guelph, Ont.

490. Loss to property at Riddell, Alta., through fire from Canadian Northern Railway's locomotives.

491. Excessive freight rates of the Canadian Pacific Railway on shipment of wheat from Carlyle, Sask., to Kenora, Ont.

492. Condition of the Canadian Northern Railway crossing at road allowance west of section 34, township 29, range 32, west 1st meridian, near Kamsack, Sask.

493. Excessive freight rates of the Grand Trunk Railway on carloads of second-hand lumberman's log sleighs, shipped from Garden River to Sundridge.

494. Excessive freight rates of the Pére Marquette Railway on shipments of grain in carloads from Wallaceburg to Niagara Falls, Ont., and from Niagara Falls to Toronto, Ont.

495. Minimum weights charged by railways on empty barrels, also on cooperage for manufacturing of barrels.

496. Free delivery limits of express companies in Toronto, Ont.

497. Non-delivery by the Canadian Northern Railway on carloads of wheat from Glenora station, Man., to Port Arthur, Ont.

498. Loss of cattle through failure of the Canadian Northern Railway to provide proper cattle-guards at Chipman, Alta.

499. Inadequate train service by the Quebec, Montreal and Southern Railway between St. Gregoire and Iberville, Que.

500. Closing by the Canadian Pacific Railway of station at Osage, Sask.

501. Removal of planking by the Canadian Pacific Railway at farm crossing, Oxbow, Sask.

502. Claim for loss on shipment by Canadian Pacific Railway, St. Claude, Man.

503. Loss of cattle at Thamesville, Ont., owing to poor condition of fences along the right of way of the Grand Trunk Railway.

504. Inadequate train service of Canadian Pacific Railway on its Pheasant Hills branch.

505. Weighing and inspection of carload of wheat from Denholm, Sask., to Winnipeg, Man., by Canadian Northern Railway.

506. Closing of Canadian Pacific Railway station at McTaggart, Sask.

507. Excessive charges by Dominion Express Company on express traffic from Montreal.

508. Refusal of Grand Trunk Railway to make settlement for shortage in shipment while in transit.

509. Failure of Canadian Pacific Railway to provide farm crossing of proper width at Cowley, Alta.

510. Discrimination by Canadian Pacific Railway in freight rates to Nutana, Sask., from points on its Crow's Nest branch.

511. Delay in delivery of shipment by Canadian Northern Railway to and from Neepawa, Man.

512. Unsatisfactory exchange of mails at Steelton, Ont.

513. Refusal of Grand Trunk Railway to supply Canadian Pacific Railway cars for shipments to western Canada.

514. Loss of cattle at Chipman, Alta., through lack of cattle-guards on Canadian Northern Railway.

515. Inadequate mail and passenger service on Pheasant Hills branch of Canadian Pacific Railway.

516. Increase in switching tariff of Algoma Central and Hudson Bay Railway Company at Sault Ste. Marie, Ont.

517. Damage in transit to shipment of seven barrels of apples from Delhi, Ont., to Rainy River, Ont., via Canadian Northern Railway.

518. Inadequate train service on Canadian Pacific Railway from Tilsonburg, Ont., to Burwell, Ont.

519. Increase in freight rate on oil by Canadian railways from Petrolea, Sarnia, Toronto and Hamilton, Ont., to points in Canada.

520. Proposed increase in freight rates on pulpwood by railways in Canada.

521. Excessive freight rates of Canadian Pacific Railway between Okanagan Valley and Pacific coast points.

522. Excessive freight rates charged on a democrat spring wagon from Clarksburg, Ont., to Battleford, Sask.

523. Excessive freight rates on car of feed wheat by Canadian Pacific Railway from Aylesburg, Sask., to Avonmore, Ont.

524. Delay by railways in settlement for goods lost or damaged in transit.

525. Proposed abrogation of joint milling in transit arrangements by Grand Trunk Railway.

526. Shunting charges of Canadian Pacific Railway between elevator and team tracks at Winnipeg, Man.

527. Excessive freight rates charged by Atlantic and Lake Superior Railway from Carleton, Ont., to Caplin, P.Q.

528. Freight rates charged by Canadian Pacific Railway on sugar shipments from Vancouver, B.C., to Manitoba, Saskatchewan and Alberta points.

529. Condition of bridge of the Walkerton and Lucknow Railway over the Saugeen river opposite lot 71, north of Wellington street, town of Walkerton, Ont.

530. Excessive freight rates charged by railways on ties from Rivière du Loup to Bennington, Vt.

531. Excessive freight rates of Canadian Pacific Railway from western points to Murillo, Ont.

532. Excessive freight rates on hay shipments from points on the Montreal-Ottawa section of the Canadian Pacific Railway.

533. Freight classification on shipment of wooden mantels, &c., via Canadian railways.

534. Application of mileage rates via railways from Ottawa, Ont., to points not covered by regular tariffs.

535. Duties imposed by Canadian railways on operators.

536. Minimum carload weight exacted by Canadian Northern Railway on car of oats ex Morinville, Alta.

537. Inadequate accommodation provided by express companies on shipments from Essex, Ont.

538. Freight classification by Canadian railways on fruit syrups in carload lots.

539. Delay in delivery of carload of grain via Grand Trunk Railway from Chicago, Ill., to Iroquois, Ont.

540. Inadequate station accommodation provided by Grand Trunk Railway, Reaboro, Ont., also passenger rates charged by that company between Lindsay and Reaboro.

541. Damage in transit to furniture shipments via Canadian railways.

542. Inadequate service provided by Dominion Express Company on shipments to and from Sabrevois, P.Q.

543. Non-delivery of grain from Indian Head to Prince Albert, Sask., by Canadian Northern Railway.

544. Loss of cattle on right of way of Canadian Northern Railway at Dundurn, Sask.

545. Non-delivery of shipment of freight from Pinewood, Ont., to Vermillion, Alta.; also overcharge on shipment of settlers' effects from Pinewood, Ont., to Hardisty, Ont.

546. Failure of Michigan Central Railroad and Hamilton, Grimsby and Beamsville Railway to provide through rates to and from points on their respective lines.

547. Increase in freight rates charged by Grand Trunk Railway on general merchandise between Ottawa and Vars, Ont.

548. Increased rates on Canadian railways for stop-over privileges on milling shipments.

549. Interswitching charge of Grand Trunk and Canadian Pacific Railways on shipments of wheat at London, Ont.

550. Delay in handling of two cars of frosted wheat shipped by Canadian Pacific Railway from Girvin, Sask.

551. Excessive charge by Canadian Northern Railway on consignment of four boxes of household goods from Port Arthur, Ont., to Lucknow, Ont.

552. Failure of Canadian Pacific Railway to deliver shipment of farm implements shipped from La Crosse, Wis., to Wabigoon, Ont.

553. Overcharge on shipment of corn from Montreal, P.Q., account non-diversion of car in transit.

554. Freight rates charged by Grand Trunk Railway on shipment of sheep.

555. Excessive freight rates charged by railways in province of Saskatchewan.

556. Inadequate train service on the Eldorado branch of the Grand Trunk Railway.

557. Refusal of the Canadian Pacific Railway to apply Sault Ste. Marie commodity rate on shipments to Espanola, Ont.

558. Inadequate accommodation for receiving and forwarding freight by railways at St. George de Henryville, P.Q.

559. Failure of Canadian Pacific Railway to supply 40,000 lbs. capacity cars for movement of wheat shipped from Belle Plaine station, Sask.

560. Excessive demurrage charges of Grand Trunk Railway on shipment to St. Marys, Ont.

561. Closing of public highway by Canadian Pacific Railway between sections 8 and 9, range 4, west of the 2nd meridian, near Arcola, Sask.

562. Discrimination in freight rates by Canadian Northern Railway on traffic between Black Rock and Fort Erie, Ont.

563. Unsatisfactory train connection afforded by the Grand Trunk Railway in the Niagara district.

564. Unsuitable cattleguards provided by the Canadian Pacific Railway at Nanton, Alta.

565. Excessive rates charged by express companies on produce from Delhi to North Bay, Ont.

566. Failure of Quebec, Montreal and Southern Railway to provide proper train connection at Longueuil, P.Q., for traffic to and from Sorel, St. Ours and Pierreville, P.Q.

567. Blockade of Canadian Northern Quebec Railway Company's line affecting traffic to and from Ponsonby, Amherst and Arundel, P.Q.

568. Discriminatory freight rates charged by Canadian Pacific Railway to and from Red Deer, Alta., as against intermediate points between Calgary and Edmonton, Alta., also refusal of railway to provide cars for movement of cattle to United States points.

569. Discrimination in freight rates by Canadian Pacific Railway Company on traffic to and from Estevan, Sask.

570. Failure of Ontario, Belmont and Northern Railway to operate its line of railway.

571. Inadequate train service furnished by Grand Trunk Railway Company between Toronto and Malton, Ont.

572. Protest of York Lumber Company against the construction of bridge over the St. John river by the Atlantic, Quebec and Western Railway at Tickle, Gaspé, Que., in such manner as to interfere with the use of this stream for the passage of logs.

573. Practice of the Michigan Central Railroad of running their engines backward between Amherstburg and Essex, Ont.

574. Excessive rates of Canadian Express Company on shipments from Prescott to Toronto, Ont.

575. Failure of the Canadian Northern Quebec Railway to equip its Montfort branch with snow plows to furnish train service for the movement of passengers

and freight traffic, also to provide station agents in the township of Montcalm, and to keep its roadbed in proper condition.

576. Overcharge by the Canadian Pacific Railway on a car of lumber from Waldo to Lethbridge, Alta.

577. Taking possession of lands, by Grand Trunk Railway Company, belonging to J. C. Haddock, Wabaman, Alta., without full settlement.

578. Cancellation by Grand Trunk Railway Company of joint freight tariff with Ottawa and New York Railway Company.

579. Practice of Michigan Central Railroad of charging shippers for large car when standard car is ordered for shipments from Ingersoll, Ont.

580. Minimum carload weight of Canada Northern Railway *re* frosted wheat.

581. Loss of cattle on Canadian Pacific Railway near Togo, Sask., owing to poor condition of fence along right of way and no cattle-guards.

582. Delays in shipments of cattle and hogs by Grand Trunk Railway Company from Hanover, Ont.

583. Delay in delivery of car of frosted wheat from Regina, Sask.

584. Loss on consignment of cheese, damaged by frost, shipped by Grand Trunk Railway Company from Belleville, Ont., to Portland, Me.

585. Condition of drainage along Canadian Pacific Railway right of way, south side, in the village of Mountain.

586. Excessive freight charges on shipments of horses by Canadian Northern Railway at Dauphin, Man.

587. Excessive freight rates charged by the Grand Trunk Railway on shipments of coal to Haileybury, Ont.

588. Increase in freight rates on Canadian Pacific Railway on stone from Stony Mountain quarry, Man.

589. Blocking of highway at Thornhill by trains of the Grand Trunk Railway.

590. Delay in delivery of shipments of freight by the Canadian Pacific Railway between Guelph, Ont., and Montreal, Que.

591. Insufficient passenger train service between Saskatoon and Asquith, and also lack of station facilities at latter point.

592. Delay in delivery of shipment of cheese from Toronto to New Liskeard, Ont., via Grand Trunk and Temiskaming and Northern Ontario Railways.

593. Inadequate train service of Grand Trunk Railway between St. Hilaire and Montreal, Que.

594. Delays in shipments of freight at Montreal, Que., terminals by the Canadian Pacific Railway.

595. Increase in minimum carload weights charged by railways in Canada on canned goods for export.

596. Increase made by the Canadian Pacific Railway Company's telegraph in rates for associated press service supplying to daily papers in Kootenay district.

597. Excessive charges made by the Canadian Express Company on colt from Guelph, Ont., to Harper, Iowa.

598. Discrimination by Canadian Pacific Railway in through rates from eastern points to Brandon, Man.

599. Overhead bridge of Grand Trunk Railway at Belleville, Ont., and condition of railway crossing within the city.

600. Inadequate car supply of Canadian Northern Railway on shipment of lumber to Ninette, Man.

601. Delay in delivery of shipments of freight via Quebec, Montreal and Southern and Grand Trunk Railways from Sorel to Windsor Mills, Que.

602. *Re* refrigerator car shipments for Guelph, Ont.

603. Delay in forwarding and delivering baggage checked from Winnipeg, Man., to Swift Current, Sask.

604. Inadequate facilities supplied for movement of live stock by Grand Trunk from Bronte to Toronto and from Listowel to Bronte, Ont.

605. Insufficient cattle-guards constructed by Atlantic, Quebec and Western Railway on its line from Paspebiac to Port Daniel, Que.

606. Loss on Canadian Northern Railway at Makaroff, Man., of cattle through failure of company to fence right of way and provide cattle-guards.

607. Delay in delivery of three cases of settlers' effects via Canadian Pacific Railway, Cowichan, B.C.

APPENDIX F.

OTTAWA, May 7, 1908.

A. D. CARTWRIGHT, Esq.,
Secretary Railway Commission,
Ottawa, Ont.

SIR,—I beg to submit herewith a list of the examinations and inspections made by the engineering department of the Board covering period from April 1, 1907, to March 31, 1908.

I have the honour to be, sir,
Your obedient servant,

(Sgd.) GEO. A. MOUNTAIN,
Chief Engineer.

LIST OF INSPECTIONS MADE BY THE ENGINEERING DEPARTMENT OF THE RAILWAY COMMISSION, APRIL 1, 1907, TO MARCH 31, 1908, INCLUSIVE.

April 4, 1907.—Inspection of station grounds and road leading to station at St. George, Ont., on the Grand Trunk Railway.

April 8, 1907.—Inspection of highway crossings on the line of the Niagara, St. Catharines and Toronto Railway from Thorold to a junction with the Toronto and Hamilton Railway, in the township of Thorold, Ont., a distance of 5·3 miles.

April 8, 1907.—Niagara, St. Catharines and Toronto Railway for opening for traffic for a distance of 5·3 miles from Thorold, Ont.

April 9, 1907.—Inspection of Quebec, Montreal and Southern Railway bridge over South river near Henryville, Que.

April 9, 1907.—Inspection of bridge on the Grand Trunk Railway, in the town of Weston, Ont.

April 9, 1907.—Inspection of automatic bell at Westhill near point where the Toronto and York Radial Railway crosses the main line of the Grand Trunk Railway.

April 10, 1907.—Inspection of proposed crossing of Essex Terminal Railway and Windsor, Essex and Lake Shore Rapid Railway, on gravel road near Windsor, Ont.

April 12, 1907.—Inspection *re* car shortage and equipment on the Canadian Northern Railway.

April 13, 1907.—Inspection of crossing of Montreal street railway by the Canadian Northern Quebec Railway at Viauville, P.Q.

April 13, 1907.—Inspection of Armstrong & Cook property at Lachine in connection with drainage.

April 13, 1907.—Inspection of crossing of Montreal street railway by the Point St. Charles branch aof the Grand Trunk Railway at Notre Dame street, Montreal. P.Q.

April 13, 1907.—Inspection of scene of accident which occurred on April 10, 1908, about 22 miles west of Chapleau, Ont., on line of the Canadian Pacific Railway.

April 15, 1907.—Inspection of Grand Trunk Railway crossing by the Peterboro' Radial Railway at Charlotte street, Peterboro', Ont.

April 16, 1907.—Inspection of interlocking plant at crossing of the Brandon, Saskatchewan and Hudson Bay Railway, and the Canadian Northern Railway near Wakopa.

April 18, 1907.—Inspection of Grand Trunk and Canadian Pacific spur lines on Mowat avenue, in the city of Toronto, Ont.

April 19, 1907.—Inspection of Windsor and Tecumseh Railway overhead crossing of the Grand Trunk Railway at Sandwich street, in the town of Walkerville, Ont.

April 20, 1907.—Inspection of Canadian Pacific Railway as to protection of bridges over the Assiniboine river at Headingly and St. James.

April 25, 1907.—Inspection of road crossing near mile 98 on the McLeod branch of the Canadian Pacific Railway.

April 29, 1907.—Inspection of highway and street crossings at Claresholme, Alta., on the McLeod branch of the Canadian Pacific Railway.

May 2, 1907.—Inspection of main line of Canadian Pacific Railway between Wolseley and Sintaluta, Sask., as to fencing.

May 9, 1907.—Inspection of roadbed on the Canadian Northern Railway between Morris and Sommerset (Miami branch).

May 10, 1907.—Inspection of Canadian Northern Railway at Sommerset station as to notices required to be set up under subsection 3, section 274 of the Railway Act.

May 11, 1907.—Inspection of electric alarm bell at Scarboro' crossing or what is known as the Kingston road crossing.

May 11, 1907.—Railway crossing at Yonge sereet, in the city of Toronto, Ont.

May 11, 1907.—Inspection of Grand Trunk Railway crossing over Dufferin street in the city of Toronto, Ont.

May 11, 1907.—Inspection of proposed location of second track of the Grand Trunk Railway from North Parkdale to Toronto Junction.

May 14, 1907.—Inspection road crossing on the Pembina branch of the Canadian Pacific Railway.

May 15, 1907.—Inspection of interlocking plant at crossing of Napierville Junction Railway with Grand Trunk Railway at Lacolle.

May 16, 1907.—Inspection of street crossings in the town of Farnham, Que., on the line of the Canadian Pacific Railway and the Central Vermont Railway.

May 16, 1907.—Inspection of Grand Trunk Railway (Canada Atlantic Railway) from St. Louis to Aubrey, P.Q.

May 16, 1907.—Inspection of interlocking plant at Carroll, at crossing of the Brandon, Saskatchewan and Hudson Bay Railway and Canadian Pacific Railway.

May 16, 1907.—Inspection of interlocking plant at Minto crossing of the Canadian Northern Railway and the Brandon, Saskatchewan and Hudson Bay Railway.

May 16, 1907.—Inspection of interlocking plant at Boissevainn crossing of the Canadian Pacific Railway and the Brandon, Saskatchewan and Hudson Bay Railway.

May 20, 1907.—Inspetcion of farm crossing of J. B. Kennedy, M.P., at mile 2·6 on the Ottawa-Prescott line of the Canadian Pacific Railway.

May 21, 1907.—Inspection of branch line of the Niagara, St. Catharines and Toronto Railway from Thorold to Fonthill, a distance of 6·8 miles.

May 21, 1907.—Inspection of interlocking plant at Carberry, Man., crossing of the Canadian Pacific Railway and Canadian Northern Railway.

May 22, 1907.—Inspection of level crossing of Grand Trunk Railway at Bowen road, in the township of Bertie, Ont.

May 22, 1907.—Inspection of level crossing of Wilson street by main line of the Grand Trunk Railway, in the city of Woodstock, Ont.

May 22, 1907.—Inspection of crossing of highways on 12th and 13th lines by Canadian Pacific Railway, in township of Blandford, Ont.

May 22, 1907.—Inspection of Brantford and Hamilton Railway, from east town line to Market street in the city of Brantford, Ont.

May 22, 1907.—Inspection of interlocking plant at Findlay, Man., crossing the Canadian Northern Railway (Hartney branch), and the Canadian Pacific Railway (Arcola branch).

May 23, 1907.—Interlocking plant in the parish of St. James, Man., crossing the Canadian Pacific Railway (Souris branch) and the Canadian Northern Railway.

May 25, 1907.—Inspection of interlocking plant in the parish of St. James, Man., crossing the Canadian Northern Railway (Oak Point section) and the Canadian Pacific Railway main line.

May 30, 1907.—Inspection of the crossing of the Canadian Northern Railway at Cascades and Church streets, Parry Sound, Ont.

May 30, 1907.—Inspection of connection between Canadian Northern Railway and Grand Trunk Railway at Falding, Ont.

May 30, 1907.—Inspection of Canadian Pacific Railway (Winnipeg branch), municipality of St. Paul's, as to construction of two culverts and ditches across the right of way.

June 5, 1907.—Inspection of double track of the Canadian Pacific Railway (Kenora section), from Whitemouth (mile 71·6) to Molson (mile 87·6) for opening for traffic.

June 5, 1907.—Inspection of double track of the Canadian Pacific Railway (Ignace section) for opening for traffic from Eagle, mile 80·1 to mile 84·0.

May 5, 1907.—Inspection of double track, Canadian Pacific Railway (Kenora section) for opening for traffic from mile 45·0 to mile 39·4.

June 5, 1907.—Inspection of double track, Canadian Pacific Railway (Ignace section) from mile 84 to Vermillion, mile 90·1, for opening for traffic.

June 5, 1907.—Inspection of street crossings in town of Strathroy, Ont., by the Grand Trunk Railway.

June 6, 1907.—Inspection of drainage on farm, J. R. Souley, on the line of the Grand Trunk Railway, about one mile east of station at Blackwater Junction.

June 6, 1907.—Inspection of culvert under track of the Grand Trunk Railway, in township of Bertie, Ont.

June 7, 1908.—Inspection of farm crossing of George Church on the Gatineau branch of the Canadian Pacific Railway.

June 11, 1907.—Inspection of railway crossings over streets in the town of Ingersoll, Ont.

June 12, 1907.—Inspection of double track of Canada Southern Railway, from Waterford to Hagersville, a distance of 12·75 miles, and from Bridgeburg to Niagara Falls, a distance of 2·10 miles, for opening for traffic.

June 12, 1907.—Inspection of trestle at mile 114·1, on the Canadian Pacific Railway, just east of the Rideau river, at Merrickville, Ont.

June 18, 1907.—Inspection of location of the Vancouver, Victoria and Eastern Railway, in the municipality of Delta, B.C., as to the changing of the Larder highway.

June 18, 1907.—Inspection of condition of track of Canada Southern Railway from Niagara-on-the-Lake to Niagara Falls, a distance of 15 miles.

June 19, 1907.—Inspection of revised location of the Canadian Northern Ontario Railway, through the town of Hawkesbury, Ont.

June 19, 1907.—Inspection of Sudbury-Kleinburg branch of the Canadian Pacific Railway from Craighurst to Bala.

June 21, 1907.—Inspection of Central Vermont Railway from St. Lambert to Waterloo, Que.

June 25, 1907.—Inspection of Orford Mountain Railway.

June 26, 1907.—Inspection of Canadian Pacific Railway trestle at Pembroke, Ont.

June 29, 1907.—Inspection of proposed level crossing at Garafraxa street in the town of Durham, Ont., by the Walkerton and Lucknow Railway (C.P.R.).

July 3, 1907.—Inspection of Central Vermont Railway bridge over the Richelieu river bridge at St. Johns, P.Q.

July 3, 1907.—Inspection of Quebec, Montreal and Southern Railway.

July 8, 1907.—Inspection of power transmission line work of Windsor, Essex and Lake Shore Rapid Railway, at Essex, Ont.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossing of the Canadian Pacific Railway on Queen street east, Toronto, Ont.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossings of Canadian Northern Railway on Queen street east, Toronto, Ont.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossings of the Grand Trunk Railway, on Queen street east, Toronto, Ont.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossings of the Canadian Pacific Railway, in the northwest part of Toronto, near Toronto and Niagara Power Company's substation.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossings of the Canadian Pacific Railway, near exhibition grounds, Toronto, Ont.

July 9, 1907.—Inspection of Toronto Electric Light Company's line crossings of railways at Queen street west viaduct, Toronto, Ont.

July 9, 1907.—Inspection of Napierville Junction railway crossing of the Canadian Pacific Railway, near St. Constant, P.Q.

July 10, 1907.—Inspection of proposed diversion of the St. Foye road, and crossing of the St. Louis road by the Canadian Northern Quebec Railway at Quebec.

July 15, 1907.—Inspection of New Brunswick Southern Railway, from St. John to St. Stephen, a distance of 82 miles.

July 23, 1907.—Inspection of farm crossing of B. Nantel on the line of the Canadian Northern Quebec Railway, near mileage 3, between St. Jerome and St. Sauveur, P.Q.

July 23, 1907.—Inspection of farm crossing of I. Boisclaire on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway, near mileage 8.

July 23, 1907.—Inspection of farm crossing of J. Chartrand on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway, near mileage 7.

July 23, 1907.—Inspection of farm crossing of J. B. Leblanc on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway, near mile 4.3.

July 23, 1907.—Inspection of farm crossing of Madame Pluoffe on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway, mile 15.

July 26, 1907.—Inspection of bridge across Kebsquashing River on the line of the Canadian Pacific Railway, one and a half miles east of Chapleau, Ont.

July 27, 1907.—Inspection of south bank branch of the Lachine Canal of the Ontario and Quebec Railway, from Highlands to station 314, near the premises of the Canada Sugar Refinery Company.

July 31, 1907.—Inspection of culverts on the line of the Grand Trunk Railway, east of Coteau station.

July 31, 1907.—Inspection of proposed spur to Pilon's brickyard at Casselman, Ont.

August 5, 1907.—Inspection of Innerkip Telephone Association's line crossing the Canadian Pacific Railway at Innerkip, Ont.

August 7, 1907.—Inspection of proposed extension of highway dividing the 2nd concession from the 3rd range of the township of Grantham near Drummondville, Que.

August 10, 1907.—Inspection of People's Telephone Company's line crossing the Canadian Pacific Railway at Lennoxville, Que.

August 14, 1907.—Inspection of track on the Canadian Pacific Railway (Teulon branch) from mile 37·7 to Komora, mile 46·5, for opening for traffic.

August 20, 1907.—Inspection of track on the Vancouver, Victoria and Eastern Railway from Chopoka, at the international boundary, to Keremosa, B.C., a distance of 17 miles, for opening for traffic.

August 22, 1907.—Inspection of farm crossing of J. Barr, of Blyth, Ont., on the line of the Guelph and Goderich Railway.

August 22, 1907.—Inspection of highway crossings on the line of the Guelph and Goderich Railway, mile 20 to 30, in the township of Wellesley, Ont.

August 22, 1907.—Inspection of highway crossings on the line of the Guelph and Goderich Railway in the township of Elma, Ont.

August 22, 1907.—Inspection of highway crossings on the line of the Guelph and Goderich Railway in the township of Mornington, Ont.

August 26, 1907.—Inspection of Canadian Pacific Railway, diversion near Antelope, Alta., from mile 26 to mile 23·8, for opening for traffic.

August 27, 1907.—Inspection of Canadian Pacific Railway (Crow's Nest branch), near Cowley, Alta., as to cattle-guards.

August 27, 1907.—Inspection of Canadian Northern Railway (Prince Albert-Regina branch), for a distance of 249·3 miles, as to roadbed.

August 27, 1907.—Inspection of crossing of the Guelph Radial Railway by the Guelph and Goderich Railway at Guelph, Ont.

August 28, 1907.—Inspection of Canadian Northern Railway (Prince Albert-Regina branch), at Dundurn, Sask., as to fences.

August 28, 1907.—Inspection of Canadian Northern Railway (from Prince Albert to Gilbert Plains, a distance of 360 miles, as to roadbed.

August 28, 1907.—Inspection of Canadian Northern Railway at Valparaiso, Sask., as to a siding replaced.

September 3, 1908.—Inspection of location of Grand Trunk Railway, across farm of S. B. Carew, about three miles east of Omemee Junction.

September 4, 1907.—Inspection of proposed diversion of the highway from mile 8.14 to mile 8.38 on the line of the Georgian Bay and Seaboard Railway in the township of Tay, Ont.

September 4, 1907.—Inspection of highway crossings on the line of the Georgian Bay and Seaboard Railway in the township of Tay, Ont.

September 5, 1907.—Inspection of street crossings in the town of Belleville, Ont.

September 7, 1907.—Inspection of Canadian Pacific Railway, south of Battleford, as to a farm undercrossing on the southeast quarter of section 40—20—22 west of the third, Saskatchewan.

August 9, 1907.—Inspection of Windsor, Essex and Lake Shore Rapid Railway from Windsor to Kingsville for opening for traffic.

August 12, 1907.—Inspection of Canadian Pacific Railway (Pheasants Hill branch) from Strasburg, mile 0, to Nakomis, mile 31·2.

August 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway, in township of York, Ont.

August 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway in the township of Markham, Ont.

August 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Railway in township of Whitchurch, Ont.

August 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway in township of East Gwillimbury, Ont.

August 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway in township of Thorah, Ont.

September 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway, in township of Mara, Ont.

September 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway, in township of Georgina, Ont.

September 13, 1907.—Inspection of highway crossings on the line of the Canadian Northern Ontario Railway, in township of Scott, Ont.

September 13, 1907.—Inspection of Canadian Northern Ontario Railway, from Parry Sound to Still river, a distance of 44 miles, for opening for traffic.

September 27, 1907.—Inspection of Grand Trunk Pacific Railway between Portage la Prairie, mile 54·1, to Rae, mile 176:0, for opening for traffic.

September 28, 1907.—Inspection of Canadian Pacific Railway, second track from Kakabeka to Kaministiquia, for opening for traffic.

October 1, 1907.—Inspection of Canadian Pacific Railway double track (Kenora section), Molson cut-off, from Whittier Junction, mile 124·1, to Molson, mile 87·1, for opening for traffic.

October 1, 1907.—Inspection of Canadian Pacific Railway, double track (Kenora section) from Dagero, mile 39:5, to Rennie, mile 51·7.

October 1, 1907.—Inspection of Canadian Pacific Railway double track (Kenora section) from Manitoba boundary (mile 31·2) to mile 33, for opening of traffic.

October 2, 1907.—Inspection of Canadian Pacific Railway, double track (Ignace section) from mile 71 to Eagle, mile 80·1, for the opening for traffic.

October 7, 1907.—Inspection of Grand Trunk Railway, spur line in the town of St. Lambert, P.Q.

October 9, 1907.—Inspection of Canadian Northern Railway at Dundurn, Sask., as to road crossing.

October 10, 1907.—Inspection of location Atlantic, Quebec and Western Railway.

October 10, 1907.—Inspection of location Atlantic and Lake Superior Railway.

October 10, 1907.—Inspection of location of St. Omer station on the Atlantic, Quebec and Western Railway.

October 11, 1907.—Inspection of Canadian Pacific Railway, diversion at Cummings from mile 108·8 to mile 110 for opening for traffic.

October 16, 1907.—Inspection of crossing of the Grand Trunk Railway by the Canadian Pacific Railway, a short distance from the asylum at London, Ont.

October 16, 1907.—Inspection of interlocking appliances at crossing of the Grand Trunk Railway, by the Canadian Pacific Railway, a short distance east of St. Thomas, Ont.

October 18, 1907.—Inspection of proposed extension of George street across the track of the Grand Trunk Railway at Peterborough, Ont.

October 23, 1907.—Inspection of condition of track on the Canadian Pacific Railway from Mile End to St. Jerome, a distance of 29 miles.

October 23, 1907.—Inspection of Canadian Pacific Railway at St. Boniface as to location of new station.

October 26, 1907.—Inspection of Canadian Pacific Railway double track (Fort William section) between Kaministiquia, mile 23, to Sunshine, mile 28·8, for opening for traffic.

October 27, 1907.—Inspection of Canadian Pacific Railway double track (Kenora section) from Rennie, mile 51:7, to Whitemouth, mile 71·6, for opening for traffic.

October 27, 1907.—Inspection of Canadian Pacific Railway double track (Fort William section) from mile 0 to mile 3, for opening for traffic.

October 27, 1907.—Inspection of Canadian Pacific Railway double track (Ignace section) from Eagle, mile 80·1 to mile 84·0.

October 29, 1907.—Inspection of Canadian Northern Ontario Railway in the town of Hawkesbury, Ont.

October 30, 1907.—Inspection of interlocking appliances at crossing of the Grand Trunk Railway by the Canadian Pacific Railway, near Hurdman's Bridge, Ont.

November 2, 1907.—Inspection of location of the Chatham, Wallaceburg and Lake Erie Railway on Queen street, Chatham, Ont.

November 5, 1907.—Inspection of derails at crossing of the Montreal street railway by the Chateauguay and Northern Railway on Ontario street, in the city of Montreal, P.Q.

November 6, 1907.—Inspection of Canadian Pacific Railway (Kincorth division) from mile 101·4 to mile 103·1, for the opening for traffic.

November 6, 1907.—Inspection of Fuller's Crossing on the line of the Canadian Pacific Railway, about one mile south of Cowansville, Que.

November 6, 1907.—Inspection of bridge No. 96:2 on the line of the Canadian Pacific Railway (Sherbrooke section) at Eastman, P.Q.

November 7, 1907.—Inspection of Canadian Northern Quebec Railway, from a point on the Great Northern Railway, near St. Jerome to a junction with the constructed line of the Montfort division of the Canadian Northern Quebec Railway, near St. Sauveur, a distance of 15·2 miles.

November 7, 1907.—Inspection of farm crossing of Joseph Foisy, lots 76 and 77 on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 7, 1907.—Inspection of farm crossing of Felix Beausejour, lot 75, on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 7, 1907.—Inspection of cattle pass on farm of N. Latour, lot 72, St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 7, 1907.—Inspection of farm crossing of Joseph Chartrand near mileage 7, St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 7, 1907.—Inspection of farm crossing, M. Francoeur, lots 432 and 433, mile 6·5 on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 7, 1907.—Inspection of farm crossing, A. Paquette, lots 70 and 71, near mile 14, on the St. Jerome-Montfort branch of the Canadian Northern Quebec Railway.

November 11, 1907.—Inspection of crossings and proposed crossing of C. E. Naylor's electric light wires over Windsor, Essex and Lake Shore Rapid Railway at Essex, Ont.

November 13, 1907.—Inspection of Canadian Pacific Railway (Pheasants Hill branch) from Nakomia, mile 125·5 to Lanigan, mile 148·7, for opening for traffic.

November 16, 1907.—Inspection of Canadian Pacific Railway double track (Ignace section) from Ingolf, mile 31.2, to Dagero, mile 39.5, for opening for traffic.

November 16, 1907.—Inspection of Canadian Pacific Railway double track (Ignace section) from mile 133.4 to mile 140.9, for opening for traffic.

November 16, 1907.—Inspection of Canadian Pacific Railway double track (Ignace section) from mile 63.5 to mile 71.0, for opening for traffic.

November 18, 1907.—Inspection of Canadian Pacific Railway, Lyleton branch, as to track condition.

November 18, 1907.—Inspection of crossing of the Canadian Pacific Railway by the Canadian Northern Railway at Romford, Ont.

November 18, 1907.—Inspection of interlocking appliances at crossings of Lake Erie and Detroit River Railway by the Windsor, Essex and Lake Shore Rapid Railway at Pelton, Ont.

November 19, 1907.—Inspection of Canadian Pacific Railway crossing tracks of the Grand Trunk Railway about one mile west of Woodstock station, Ont.

November 19, 1907.—Inspection of Canadian Pacific Railway, near Kisby, Sask., as to location of cattle-guards.

November 20, 1907. —Inspection of King street crossing, Waterloo, by the Elmira branch of the Grand Trunk Railway.

November 20, 1907.—Inspection of crossing of spurs of the Grand Trunk Railway by spurs of the Preston and Berlin Railway on Wilmot and Joseph streets in the town of Berlin, Ont.

November 20, 1907.—Inspection of Grand Trunk Railway, crossing of Waterloo road about three miles south of Guelph Junction, Ont.

November 21, 1907.—Inspection of interlocking appliances at crossing of main line of the Canadian Pacific Railway by the Canadian Northern Railway at Romford, Ont.

November 21, 1907.—Inspection of extension of highway across the Canadian Pacific Railway at the village of Markstay, Ont.

November 21, 1907.—Inspection of Cataract Electric Company's wires crossing Canadian Pacific at Orangeville, Ont.

November 21, 1907.—Inspection of Cataract Electric Company's wires crossing Canadian Pacific at Alton, Ont.

November 21, 1907.—Inspection of Cataract Electric Company's wires crossing Canadian Pacific Railway at Cataract, Ont.

November 22, 1907.—Inspection of crossing of Canadian Pacific Railway, second track over Winchester street, in the city of Toronto, Ont.

November 25, 1907.—Inspection of Canadian Northern Railway (Brandon-Regina branch) from mile 0 to mile 206, for opening for traffic.

November 26, 1907.—Inspection of Quebec, Montreal and Southern Railway system.

November 27, 1907.—Inspection of Atlantic, Quebec and Western Railway system.

December 2, 1907.—Inspection of interlocking plant at crossing of the Grand Trunk Pacific Railway and the Canadian Pacific Railway (Miniota branch) near Forrest, Man.

December 2, 1907.—Inspection of interlocking plant at crossing of the Grand Trunk Pacific and the Canadian Pacific Railway, Varcoe branch.

December 2, 1907.—Inspection of interlocking plant at crossing of the Grand Trunk Pacific Railway and the Canadian Northern Railway, Carberry branch.

December 4, 1907.—Inspection of Union station grounds at Toronto, Ont.

December 4, 1907.—Inspection of switch of Toronto, Hamilton and Buffalo Railway, on Hunter street, Hamilton, Ont.

December 4, 1907.—Inspection of crossing of Grand Trunk Railway by the Canadian Pacific Railway near Toronto Junction, Ont.

December 5, 1907.—Inspection of Grand Trunk Railway, highway crossing at the south end of the town of Chesley, Ont.

December 5, 1907.—Inspection of Canadian Northern Railway, in the town of Manville, Alta., as to crossings.

December 6, 1907.—Inspection of street crossings by the Walkerton and Lucknow Railway in the town of Durham, Ont.

December 7, 1907.—Inspection of Canadian Pacific Railway in the town of McLean, Sask., as to crossings.

December 7, 1907.—Inspection of interlocking plant where the Grand Trunk Pacific Railway crosses the double track of the Canadian Pacific Railway and the Canadian Northern Railway at West Fort William, Ont.

December 11, 1907.—Inspection of Canadian Pacific Railway (Medicine Hat section) of Cummings' diversion from mile 103·1 to mile 106·8, for opening for traffic.

December 13, 1907.—Inspection of Brantford and Hamilton Railway from the village of Ancaster to Brantford, a distance of 6·5 miles, for opening for traffic.

December 13, 1907.—Inspection of overhead bridge of the Grand Trunk Railway just west of station at Merritton, Ont.

December 17, 1907.—Inspection of location of the Atlantic, Quebec and Western Railway on Port Daniel beach, Que.

December 19, 1907.—Inspection of Canada Car Company's telpherage system crossing the Grand Trunk Railway (Lachine Canal spur) near the works of the Canada Car Company.

December 27, 1907.—Inspection of Grand Trunk Pacific Railway, near town of Arrow River, as to converting a present level crossing into a subway.

December 28, 1907.—Inspection of automatic railway signals at Drummondville, Que.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing near mile 8.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing at mile 4.9.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing at mile 14.5.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing at mile 13.4.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing at mile 3.6 and 4.0.

December 31, 1907.—Inspection of Canadian Pacific Railway, main line (Fort William section), as to road allowance crossing at mile 17.3.

January 3, 1908.—Inspection of New Brunswick Southern Railway from St. John to St. Stephen, N.B., a distance of 82 miles.

January 6, 1908.—Inspection of Mount Mackay and Kakabeka Falls Railway, crossing tracks of the Canadian Northern Railway at Francis street, Fort William Ont.

January 6, 1908.—Inspection of Mount Mackay and Kakabeka Falls Railway crossing the tracks of the Canadian Pacific Railway at McTavish street, Fort William, Ont.

January 6, 1908.—Inspection Mount Mackay and Kakabeka Falls Railway, crossing at grade the Grand Trunk Pacific Railway, at Montreal and Young streets, and the Canadian Pacific Railway at Young street; the Canadian Northern at Young street, in the town of Fort William, Ont.

January 8, 1908.—Inspection of crossing of the Windsor, Essex and Lake Shore Rapid Railway and Michigan Central Railway, on Talbot street, in the town of Essex, Ont.

January 8, 1908.—Inspection of location of the Windsor, Essex and Lake Shore Rapid Railway.

January 9, 1908.—Inspection of Chatham, Wallaceburg and Lake Erie Railway, crossing Canadian Pacific Railway, at Raleigh street, and the Grand Trunk Railway at William street, Chatham, Ont.

January 9, 1908.—Inspection of crossing of Windsor and Tecumseh Railway over the Grand Trunk Railway, at Sandwich street, Walkerville, Ont.

January 11, 1908.—Inspection of interlocking plant at Morden crossing of the Midland Railway of Manitoba and the Canadian Pacific Railway.

January 17, 1908.—Inspection of pile trestle bridge across the Richelieu river at St. Johns, P.Q., on the line of the Central Vermont Railway.

January 17, 1908.—Inspection of Central Vermont Railway lines in Canada.

January 20, 1908.—Inspection of crossing of the Grand Trunk Railway by the Ottawa Electric Railway on Queen street, Ottawa.

January 21, 1908.—Inspection of crossing of the Canadian Pacific Railway by the Thessalon Lumber Company at Thessalon, Ont.

January 21, 1908.—Inspection of grade revision on the Canadian Pacific Railway, between Markstay and Stinson on the Lake Superior division.

January 22, 1907.—Inspection of town of Thorold crossing the tracks of the Niagara, St. Catharines and Toronto Railway by means of a water pipe.

January 22, 1908.—Inspection of highway crossing on the Toronto, Hamilton and Buffalo Railway, one mile east of station at Jerseyville, Ont.

January 22, 1908.—Inspection of Fournier street extension over the Canadian Pacific Railway yards at Sault Ste. Marie, Ont.

January 23, 1908.—Inspection of Canadian Northern Railway (Prince Albert branch) at Lumsden, Sask., as to fencing.

January 24, 1908.—Inspection of Canadian Northern Railway, Hutton branch, from Sudbury Junction to Moose Mountain mines, a distance of 27 miles, for opening for traffic.

January 24, 1908.—Inspection of Canadian Northern Railway, from Canadian Pacific Railway crossing near Romford, to Sudbury, a distance of ten miles, for opening for traffic.

January 29, 1908.—Inspection of Lemire system of block signalling.

January 31, 1908.—Quebec, Montreal and Southern Railway through the Picoudi range south of St. Robert station.

February 1, 1908.—Inspection of Canadian Pacific Railway (Pheasant Hill branch) opening for freight traffic from Lanigan, mile 254·5.

February 3, 1908.—Inspection of Canadian Northern Quebec Railway crossing of Montreal Street Railway, on Ontario street, near Valois avenue, Montreal, P.Q.

February 11, 1908.—Inspection of town of Thorold water pipes under the Niagara, St. Catharines and Toronto Railway at Thorold, Ont.

February 12, 1908.—Inspection of horseshoe curve at Caledon station on the Owen Sound branch of the Canadian Pacific Railway.

February 12, 1908.—Inspection of crossing of the Grand Trunk Railway by the Hamilton Street Railway, at the intersection of Ferguson ave. and Barton street, in the city of Hamilton.

February 13, 1908.—Inspection of layout of the Canadian Pacific Railway tracks in the town of Orangeville, Ont.

February 12, 1908.—Inspection of crossing of stone road by the Brantford and Hamilton Railway, one mile west of Cainsville, Ont.

February 12, 1908.—Inspection of Yukon ad Pacific (N.C.R.) from Edmonton to Strathcona, a distance of ten miles, for opening for traffic.

February 13, 1908.—Inspection of interlocking appliances at crossing of the Père Marquette Railroad by the Windsor, Essex and Lake Shore Rapid Railway, one mile east of Kingsville, Ont.

February 13, 1908.—Inspection of interlocking appliances at crossing of Père Marquette Railroad by the Windsor, Esex and Lake Shore Rapid Railway at Landsdowne avenue, Kingsville, Ont.

February 14, 1908.—Inspection of crossing of Garth street, Hamilton, by the Toronto extension of the Toronto, Hamilton and Buffalo Railway.

February 14, 1908.—Inspection of Grand Trunk Pacific Railway in connection with location of bridge and line over a bay in Lake Wabamun, Alta.

February 15, 1908.—Inspection of Canadian Northern Railway, at Chipman and Lamont, as to cattle-guards and fencing.

January 20, 1908.—Inspection of Canadian Pacific Railway (Edmonton branch) as to highway crossings at Crossfield, Alta.

February 25, 1908.—Inspection of crossings over the tracks of the Wellington Colliery Company and the Esquimalt and Nanaimo Railway west of Ladysmith, B.C.

February 25, 1908.—Inspection of station grounds of the Grand Trunk Railway at Dundas, Ont.

February 27, 1908.—Inspection of trestle of the Walkerton and Lucknow Railway across the Saugeen River in the town of Walkerton, Ont.

March 2, 1908.—Inspection of cattle-guards on the line of the Vancouver, Westminster and Yukon Railway between Vancouver and New Westminster, B.C.

March 2, 1908.—Inspection of Canadian Pacific Railway, at Mission Junction, B.C., in connection with the changing of the location of the station.

March 5, 1908.—Inspection of British Columbia Southern Railway (Canadian Pacific Railway) for opening for traffic near Sparwood, B.C.

March 6, 1908.—Inspection of Grand Trunk Railway, crossing of the Waterdown road by means of an overhead bridge, township of East Flamboro, Ont.

March 11, 1908.—Inspection of interlocking appliances at Canadian Pacific Railway, crossing of the Grand Trunk Railway, at Lennoxville, P.Q.

March 11, 1908.—Inspection of bridge 96.2 on the line of the Canadian Pacific Railway in the village of Eastman, P.Q.

March 14, 1908.—Inspection of farm crossing of W. T. & B. Miller, lot 10, concession 4, township of Bertie, on the Michigan Central Railway, near Niagara Junction, Ont.

March 14, 1908.—Inspection of Canadian Pacific Railway (Pheasant Mill branch) for the opening of freight traffic from Lanigan to Asquith.

March 20, 1908.—Inspection of Canadian Pacific Railway (Mission branch) as to cattle-guards.

March 20, 1908.—Inspection of crossings of highways by the Walkerton and Lucknow Railway at Durham, Ont.

March 21, 1908.—Inspection of Reid street corssing of the Grand Trunk Railway in the city of Peterborough, Ont.

March 21, 1908.—Inspection of extension of George street across the Grand Trunk Railway, in the city of Peterborough, Ont.

March 25, 1908.—Inspection of Canadian Northern Railway as to fencing the right of way between Roblin and Togo.

March 26, 1908.—Inspection of Canadian Northern Railway as to fencing the right of way between Togo and Runnymede.

March 26, 1908.—Inspection of Canadian Northern Railway at Prince Albert as to protection at the crossing at Broadway street and First avenue.

March 27, 1908.—Inspection of subway at mile post 124.96 on the line of the Grand Trunk Railway at Brockville, Ont.

March 28, 1908.—Inspection of Canadian Northern Railway main line near Kamsack, as to highway crossing.

March 28, 1908.—Inspection of Canadian Northern Railway at Togo, Man., as to crossings and station platforms.

APPENDIX G.

REPORT OF THE INSPECTOR OF ACCIDENTS OF THE BOARD.

OTTAWA, May 19, 1908.

A. D. CARTWRIGHT, Esq.,
Secretary of the Board of
Railway Commissioners for Canada,
Ottawa.

DEAR SIR,—I have the honour to submit herewith my report showing the number of persons killed and injured in train accidents during the period commencing April 1, 1907, and ending March 31, 1908, as per reports furnished by the railway companies in accordance with the Railway Act.

During the above period 529 persons were killed and 1,309 injured, classified as follows;—

	Killed.	Injured.
Passengers	64	326
Employees	246	806
Other persons	219	177
	529	1,309

Investigations were made of 501 accidents and reported to the board. Synopsis of prominent train accidents investigated are herein quoted.

Yours truly,

(Sgd.) ED. C. LALONDE,
Chief Inspector of Accidents.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the character of accidents on various railways in Canada for year ending March 31st, 1908.

CHARACTER OF ACCIDENT.	Passengers.		Employees.		Other Persons.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Derailment	25	213	19	55			44	268
Head-on collision	13	13	19	36			32	49
Stealing ride					6	5	6	5
While shunting		1	5	11			5	12
Riding on cars			1				1	
Highway crossing					44	47	44	47
Falling off freight cars			5	39	2	1	7	40
Trespassing					92	53	92	53
Body found on track or bridge	3		7		51		61	
While switching		20	29	74	2	1	31	95
Pitch-in with hand car			15	4			15	4
Died in train, natural cause	5						5	
Working under cars			4	2			4	2
Struck looking out of cab window			3	8			3	8
Suicide (attempted to)	1	1			4	2	5	3
Struck by switch stand				7				7
Adjusting couplers, coupling and uncoupling		1	17	67			17	68
Passengers falling off passenger trains	4	14					4	14
Working on track			13	21			13	21
Working on bridge				2				2
Collision rear end		9	7	28			7	37
Collision street car and steam car					1	5	1	5
Attempt to get on train while in motion	3	11	9	20	5	15	17	46
Side ladders			1	3			1	3
Falling between cars, walking on top of train while in motion			6	3	1		7	3
Fell off work train				2				2
Falling off hand car			3	3			3	3
Farm crossing					1		1	
Bridge burnt			3				3	
Collision with cars standing foul or in yard		2		7				9
Private crossing					2	1	2	1
Working under engine				1				1
Locomotive explosion			5	6			5	6
Jumping off train while in motion	6	15	4	20	2	5	12	40
Riding on pilot of engine			3	6			3	6
Working on cars and engines			1	5			1	5
Overhead bridge				4				4
Unclassified	4	26	67	372	6	42	77	440
	64	326	246	806	219	177	529	1,309

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the number of persons killed and injured on various railways in Canada for year ending March 31st, 1908.

NAME OF RAILWAY.	Passengers.		Employees.		Other Persons.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk Railway	8	113	73	510	84	98	165	721
Canadian Pacific Railway	53	188	132	120	98	33	283	341
Canadian Northern Railway	2	10	12	106	5	7	19	123
Canadian Northern Ontario				4	2	1	2	5
Canadian Northern Quebec	1			1			1	1
Michigan Central Railroad			12	39	13	33	25	72
Wabash Railroad		1	5	9		2	5	12
Toronto, Hamilton & Buffalo					2		2	
Vancouver, Westminster & Yukon Railway					1		1	
Central Vermont Railroad		1	1	5			1	6
Dominion Atlantic Railway				2	1	1	1	3
Great Northern Railway			4	3			4	3
Central Ontario Railway			2				2	
Quebec, Montreal Southern				2	1	1	1	3
Algoma Central & Hudson Bay			1	1	1		2	1
Pere Marquette Railroad		4	1		3		4	4
Atlantic & Lake Superior					1		1	
Montreal Terminal Railway			1				1	
Quebec Central Railway				1	3	1	3	2
Kingston & Pembroke Railway			1	1			1	1
Montreal Park & Island					1		1	
Vancouver, Victoria & Eastern Railway & Navigation Company			1				1	
International Transit Co.					1		1	
Bay of Quinte Railway					1		1	
Quebec Railway Light & Power Company					1		1	
Grand Valley Railway		9		2				11
	64	326	246	806	219	177	529	1,309

Name of Railway.	Derailment.		Head-on Collision.		Stealing Ride.		While Shunting.		Riding on Cars.		Highway Crossing.		Falling off Freight Cars.		Trespassing.		Body found on Track or Bridge.		While Switching.		Pitch-in with Handcar.		Died on Train, Natural Cause.		Working under Car.		Struck Looking out of Cab Window.		Suicide (Attempted to).		Struck by Switchstand		Adjust'g Couplers, Coupling or Uncoupling.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	5	65	6	20	1	4	3	10	...	...	22	39	2	29	29	36	28	...	13	71	2	1	...	...	2	1	...	7	1	1	...	7	4	46
Canadian Pacific	35	171	23	26	5	1	2	1	1	...	12	3	4	3	51	10	22	...	13	13	12	2	5	...	2	1	3	1	3	2	...	...	11	11
Canadian Northern	3	15	...	1	...	...	...	...	...	...	2	2	...	4	...	3	1	...	1	9	...	1	...	...	...	...	...	...	1	...	...	...	2	8
Canadian Northern Ontario	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Canadian Northern Quebec	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Michigan Central	...	...	...	...	...	...	...	...	...	...	3	2	...	4	3	3	9	...	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	1
Wabash	...	1	1	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Toronto, Hamilton and Buffalo	...	...	...	...	...	...	...	...	...	...	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Vancouver, Westminster and Yukon	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Vermont	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dominion Atlantic	...	...	...	...	...	...	...	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1
Great Northern	...	...	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1
Central Ontario	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Quebec, Montreal and Southern	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Algoma Central and Hudson Bay	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Père Marquette	...	4	...	...	...	...	...	...	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
The Atlantic and Lake Superior	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Montreal Terminal	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Quebec Central	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kingston and Pembroke	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Montreal Park and Island	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Vancouver, Victoria, Eastern Ry. and Nav. Co	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
International Transit Co	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bay of Quinté	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Quebec Railway Light nnd Power Co	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Grand Valley (Electric Railway)	...	10	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
	44	268	32	49	6	5	5	12	1	...	44	47	7	40	92	53	61	...	31	95	15	4	5	...	4	2	3	8	5	3	...	7	17	68

Name of Railway.	Passengers Falling off Passenger Trains.		Working on Track.		Working on Bridges.		Collision, Rear-end.		Collision, Street car and Steam car.		Attempt to get on Train while in motion.		Side Ladders.		Falling between Cars, Walking on top of Train while in motion.		Fell off Work Train.		Falling off Hand-car.		Farm Crossing.		Bridge Burnt.		Collision with cars standing foul or in Yard.		Private Crossing.		Working under Engine.		Locomotive Explosion.		Jumping off Train while in motion.		Riding on Pilot of Engine.		Working on the Cars and Engine.		Overhead Bridge.		Unclassified.		Totals.	
	K	I	K.	I.	K	I	K	I	K	I	K.	1.	K	I	K.	I.	K	I	K	1		I	K	I	K	I	K	I	K	I	K	I	K	I	K	I	K	I	K	I	K.	I.
Grand Trunk	2	10	5	16	..	..	2	16			5	24	..	2	..	1	..	1	..	1	1	..	..	..	..	1	..	..	..	1	2	..	4	24	2	3	..	2	..	3	24	279	165	721
Canadian Pacific	2	1	6	3	..	..	5	18	1	5	7	13	..	..	5	2	..	..	3	1	..	..	3	..	..	8	..	..	..	..	..	3	6	9	1	1	1	1	..	..	39	31	283	341
Canadian Northern	..	2	..	..	..	2	..	1	..	..	2	2	..	1	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	6	..	1	..	2	..	..	5	63	19	123
Canadian Northern Ontario	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	2	5
Canadian Northern Quebec	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1
Michigan Central	..	..	2	2	..	..	..	..	..	..	..	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	5	57	25	72
Wabash	..	1	..	..	..	..	..	2	..	..	..	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	..	..	..	..	..	..	1	1	4	5	12
Toronto, Hamilton and Buffalo	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	.....
Vancouver, Westminster and Yukon	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Central Vermont	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	1	..	..	..	..	..	..	1	6
Dominion Atlantic	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1	3
Great Northern	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1	4	3
Central Ontario	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	2	.....
Quebec, Montreal and Southern	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	1	1	3
Algoma Central and Hudson Bay	..	..	..	..	..	..	..	..	..	..	..	1	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	1
Père Marquette	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	4	4
The Atlantic and Lake Superior	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Montreal Terminal	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	..	1	.....
Quebec Central	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	2
Kingston and Pembroke	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1
Montreal Park and Island	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Vancouver, Victoria, Eastern Ry. & Nav. Co.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
International Transit Co	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Bay of Quinté	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Quebec Ry. Light and Power Co	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	.....
Grand Valley (Electric Railway)	..	..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	.....	11
	4	14	13	21	..	2	7	37	1	5	17	46	1	3	7	3	..	2	3	3	1	..	3	..	..	9	2	1	..	1	5	6	12	40	3	6	1	5	..	4	77	440	529	1,309

COMPARATIVE Statement in totals of killed and injured between year ending March 31st, 1907, and year ending March 31st, 1908.

	Passengers.		Employees.		Other Persons.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Year ending March 31, 1907	42	210	212	317	206	76	460	603
Year ending March 31, 1908	64	326	246	806	219	177	529	1,309
Increase over 1907	22	116	34	489	13	101	69	706
Decrease for 1908								

COMPARATIVE Statement in totals of killed and injured between year ending March 31st, 1907, and year ending March 31st, 1908, for each railway separately.

NAME OF RAILWAY.	1907.		1908.		1908.			
					Increase.		Decrease.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk	160	303	165	721	5	418		
Canadian Pacific	218	140	283	341	65	201		
Canadian Northern	30	92	19	123		31	11	
" " Ontario			2	5	2	5		
" " Quebec		2	1	1	1			1
Michigan Central	29	13	25	72		59	4	
Wabash	1	14	5	12	4			2
Toronto, Hamilton & Buffalo	2		2					
Vancouver Westminster & Yukon			1		1			
Central Vermont		1	1	6	1	5		
Dominion Atlantic		2	1	3	1	1		
Great Northern	3	4	4	3	1			1
Central Ontario		1	2		2			1
Quebec, Montreal & Southern		3	1	3	1			
Algoma Cen. & Hudson Bay	1		2	1	1	1		
Père Marquette	2	1	4	4	2	3		
Atlantic Lake Superior	1		1					
Montreal Terminal			1		1			
Quebec Central	4		3	2		2	1	
Kingston & Pembroke	1		1	1		1		
Montreal Park & Island			1		1			
Vancouver, Victoria Eastern Ry. & Nav. Co			1		1			
International Transit Co			1		1			
Bay of Quinte			1		1			
Quebec Ry. Light and Power Co			1		1			
Grand Valley Electric Co				11		11		
Halifax and South Western	1						1	
Red Mountain	1						1	
Nelson & Fort Sheppard	4	6					4	6
Hull Electric Ry		15						15
New Brunswick Southern		3						3
Hereford Ry	1						1	
Temiscouata	1	3					1	3
	460	603	529	1,309				
Increase					93	738		
Decrease							24	32
Increase for 1908					69			706

CAUSES of One Hundred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board,

COLLISIONS.

Reference to Record.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident—Party Responsibe.
No.	1907.	1907.					
74	April 16	Jan. 20	Grand Trunk Ry.	Charlevoix, St. Crossing Pte. St. Charles, Montreal	1	....	Collision, rear-end. Between light engine No. 883 and extra freight No. 631. Engineer responsible.
1436		1906.					
76	" 10	Dec. 22	Grand Trunk Ry.	Brantford, Ont	....	3	Collision, rear-end. Between extra east No. 422, engine No. 666 and engine 630 coupled on caboose 90203. Conductor, two engineers and switchman responsible.
		1907.					
82	" 26	Feb. 28	Grand Trunk Ry.	London, Ont	1	2	Collision—Eastbound freight No. 422, through inexperience brakeman ran foul on the westbound line, encroached on the time of International express No. 15 and collided. Brakeman and engineer responsible.
1559							
85	May 17	" 20	Wabash-Grand Trunk Joint System.	Windsor, Ont	....	9	Collision, rear-end. Passenger train No. 3 stalled in the snow, and the operator at Belle River failed to observe the block by allowing train No. 13 to proceed before train No. 3 had reached Price Station. Operator responsible.
1625							
90	" 29	" 22	Grand Trunk Ry.	St. Rosalie Jct	....	1	Collision on the diamond. Grand Trunk westbound 698 and I.C.R. passenger No. 34. Failure of air brakes on extra 698. The trouble was with a very long piston travel on some of the freight cars, approaching diamond not under control. Passengers received light bruises, and caused considerable damage to rolling stock. Engineer responsible.
93	June 12	May 16	Grand Trunk Ry.	Mimico, Ont	....	2	Collision—Between C.P. No. 29 and G.T. extra freight No. 429. Signalman gave line clear for No. 29. Train 429 encroached on time of regular C.P. Ry. train No. 29. Engineer of No. 429 had 14 days experience. Engineer responsible.
1932							
98	Sept. 30	June 3	Canadian Northern	Langham	....	2	Collision, head-on. While eastbound train was taking coal, westbound train approached at high speed and collided. Two brakemen injured. Due to eastbound train not flagging and westbound not being under control.
1959							
100	July 15	" 5	Canada Northern Ry.	Shawinigan, Falls	2	1	Collision, head-on. Between special train No. 51 and Special No. 9 switching. Failure of No. 51 to be under control approaching Shawinigan Jct., disregarding General Superintendent bulletin No. 92.
1964							
104	June 20	May 31	Grand Trunk Ry.	Horse Shoe Fill	1	2	Collision, head-on. Between extra west 1363 and extra east 1373. Engineer and conductor of 1363 overlooked train order No. 92. Engineer and conductor responsible.

106	July	31	June	20	Canadian Pacific	....	1	1	Collision, rear-enh. Failure of engineer of extra freight No. 53 to have his train under control approaching at the west end semaphore while it was set at danger (showing a clear red light,) and ran into extra way freight No. 1229 while she was shunting. Rear-end of 1229 showed three red lights. Engineer responsible.
2002									
107	"	18	April	28	Grand Trunk...	Whitby Jct., Midland Yard.		2	Collision—Extra west struck cars at north end of eastern division track which were left foul by eastern division extra engine 838. Brakeman responsible.
1866									
108	"	13	June	22	Grand Trunk.....	Carlsbad Spring	1	....	Collision, head-on. Between extra No. 70 and light engine No. 1337 running tender first without headlight. Misread the leaving time of No. 70 ; 12 o'clock instead of 11.30 p.m., and the headlight on the engine of train No. 70 was out. Both engineers responsible.
2064									
113	"	17	"	20	Canadian Pacific	Butler	11	....	Collision, head-on. Enineer of 2nd 96 ran past meeting point and collided with No. 97. Colonist and sleeping car telescoped, causing the death of ten (10) Chinamen and guard in charge of them. Engineer responsible. (Whole crew was held responsible.)
2354									
			1906.						
115	"	13	Aug.	20	Canadian Pacific.....	Clandeboyne Stn. ¼ m. south of	1	....	Collision, head-on. Train No. 218 passed meeting point and collided with 225. Conductor, engineer and brakeman responsible.
1183									
			1907.						
117	"	12	Jan.	11	Grand Trunk.	Barrie, Ont.....	....	1	Collision, rear-end. Between extra 828 and passenger train No. 50—inefficient flagging. Engine 828 was not steaming. Air pump stopped and breaks applied stalling the train. Extra left Gowan station only ten (10) minutes ahead of No. 50. Men on leading train on duty 30 hours. Conductor, engineer and brakeman responsible.
1443									
124	"	15	"	25	Grand Trunk.....	Grimsby Park, Ont.....	....	....	Collision, rear-end. Engine 791 running light with van, pitched into rear of extra 557. Failure of the engineer to see the markers on the van on account of steam escaping from valve stem, packing on right hand side of engine. Conductor and brakeman suspended for leaving Grimsby Park without report of passenger No. 12 ahead.
1486									
125	"	18	"	6	Grand Trunk.....	Junction Cut, Ont	....	2	Collision, head-on. Extra 689 collided with engine 587 standing on main line. Failure of operator to place semaphore at stop to protect engine 587. Operator responsible.
1434									
139	Aug.	5	June	27	G.T.R. and I.C.R. train.	Point St. Charles, Que.... .	....	2	Collision, rear-end. Engineer did not notice switch set for shop track in time to stop, collided with G.T.R. engine 209. Engineer and fireman slightly injured. Engineer of I.C.R. 206 responsible.
2103	1908.								
152	Jan.	7	Dec.	11	Canadian Pacific	Carleton Jct., Ont..... ...	....	5	Collision, rear-end. Freight train stopped at semaphore was struck by No. 2 pasienger train. Two (2) passengers and three)3) dining car employees injured. Engineer of No. 2 responsible.
2187									
	1907.								
159	Aug.	5	July	1	Grand Trunk.	Paris, Ont.....	....	1	Collision in yard. While switching train backed up to couple to 14 cars. Coupling did not make and cars ran down and collided with a tool car injuring a laborer slightly. Accidental.
2187									
165	Sept.	4	"	28	Grand Trunk.....	Toronto, Union Station.....	....	2	Collision—While switching passenger train, engineer passed signal at stop and collided with light engine backing into station. Due to failure of engineer on switch engine to notice and be governed by fixed signals.
2244									

CAUSES of One Hundred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board—*Con.*

COLLISIONS—*Con.*

Reference to Board.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident—Party Responsible.
No.	1907.	1907.					
179	Sept. 18	July 1	Grand Trunk Ry.	Harrisburg, Ont	....	1	Collision, rear-end. Brakeman on rear of forward train was injured. Improper signals displayed on rear of this train. Engineer of second train responsible for not having his train under proper control, and conductor and brakeman of forward responsible for not flagging and displaying proper signals.
2188							
189	Aug. 26	July 31	Grand Trunk Ry.	Milverton, Ont	....	2	Collision, rear-end. Failure of conductor and brakeman to protect by flag against following train. Engineer and fireman injured. One engine and four freight cars damaged. Condnctor and brakeman responsible.
2248–2265							
196	Sept. 10	Aug. 11	Can. Pacific Ry.	Montreal, Papineau Ave.	....	3	Collision, rear-end. Extra freight collided with switch engine. Two brakemen and one fireman injured seriously. Yard foreman responsible; failed to protect by signal.
2377							
197	Sept. 19	Aug. 28	Can. Pacific Ry.	Manvers, Ont.	1	....	Collision, rear-end. Third section of freight train collided with rear of second section on which two crews were travelling passenger. Brakes on third section defective. A member of one of the crews travelling passenger killed. Three vans destroyed, one engine damaged. Due to defective and cut out air brakes.
2351							
200	Sept. 10	Aug. 20	Can. Northern, Que., and Montreal Street Ry.	Notre Dame St., Viauville, Que.	....	....	Collision on diamond. Failure of the Canadian Northern crew to flag at the diamond crossing. No person injured.
2415							
205	Sept. 23	Mar. 2	Can. Pacific Ry.	Virden	....	....	Collision, rear-end. Passenger and freight train collided. Two engines and several cars damaged. No person injured. Freight train had not sufficient running time to make Virden for the superior train. Engineer and conductor responsible.
207	Sept. 23	Aug. 31	Can. Pacific Ry.	Dunmore Jct.	3	6	Collision, head-on. Two extra trains collided. Two engineers and one passenger riding on engine killed. Two firemen and four brakemen injured. Due to failure of operator to deliver order at Dunmore Jct. to westbound train. Operator responsible.
1191							
211	Sept. 27	Jan. 11	Can. Pacific Ry.	Jukeson, B.C.	1	2	Collision, rear-end. First train held order not to exceed a speed of 10 miles per hour. Second train was not given copy of order. One brakeman killed. Conductor and engineer injured. Train despatcher responsible.
1428a							

218	Sept. 28	May 28	Can. Northern	Mestadem (near M.P. 233½)	1		1	Collision—Engine collided with cars standing on main track. Engineer was returning from dinner to where a part of train was left standing on main line and pitched into those cars. One labourer and one mill foreman injured seriously. Engineer responsible (failed to notice distance between cars and engine in time to stop).
1949								
231	Oct. 7	Sept. 13	Wabash Grand Trunk Joint System.	Cayuga, Ont	....		2	Collision, rear-end. First train stopped to take siding and was struck by engine with caboose. Engineer and fireman injured. Conductor of first train failed to flag, and engineer of second train approached at high speed. Both are equally responsible. Weather foggy.
2531								
232	Oct. 1	Sept. 18	Grand Trunk	Vaudreuil, Que	1		2	Collision, rear-end. Failure of operator at St. Dominique to maintain a block on eastbound trains, and failure of operator at Vaudreuil to observe the rules of block system, and error of rear brakeman in not flagging. One brakeman killed, one brakeman and foreman injured.
2483								
234	Oct. 19	Sept. 2	Grand Trunk	Brule Lake, Ont	....		1	Collision—Two freight trains collided. One fireman injured. Slight damage to engines. Engineer of westbound train responsible, and engineer of eastbound train on duty excessively long hours. Trainmaster responsible for this condition.
2379								
245	Nov. 11	Sept. 11	Can. Pacific	Plantagenet, Ont	1		1	Collision between engine of ballast train standing on main track taking coal, and extra east. One fireman fatally injured and one engineer seriously injured. Due to eastbound train not observing rules and signals.
2417								
248	Jan. 30	Oct. 3	Can. Northern	Fort Francis	....		2	Collision in yard. First 97 collided with extra 327. Both engineers injured. Due to engineer, fireman and brakeman on first No. 97 falling asleep.
2521								
254	Dec. 6	Aug. 13	Can. Pacific	Kama, Ont	1		4	Collision—Switch left open. Ballast train in pit siding, loading train. Main track switch left open. Passenger train ran in pit track and collided with engine of ballast train. Engineer of passanger train fatally injured, and four passengers injured. Conductor and engineer of ballast train responsible.
2489								
256	Oct. 21	Oct. 10	Grand Trunk	Trenton, Ont	1		4	Collision—Brakeman turned wrong switch and backed into side of train on opposite track. One man killed and four injured. Were riding in cars with horses. Fourteen cars smashed. Brakeman responsible.
2571								
257	Oct. 21	Sept. 29	Grank Trunk	Allandale, Ont	1	....		Collision, rear-end. Forward train stopped at semaphore on heavy down grade. Rear train failed to stop, due to engine not equipped with driving power brakes. Company responsible. Trains were double-headers.
2505								
268	Dec. 16	Sept. 2	Grand Trunk	Paris Jct., Ont	....		1	Collision—Freight train backing up, rear end fouled main track and collided with No. 3 passenger train. One passenger injured. Conductor and brakeman of freight train responsible.
2380								
288	Dec. 16	Oct. 11	Grand Trunk	Toronto, Ont. (Toronto terminals).			1	Collision in yard. Transfer train coupling up rear end. Slack run down. Conductor had hand crushed between cylinder of engide standing on parallel track and side of train. Conductor and rear-brakeman of transfer train responsible.
2568								
297	Dec. 4	Oct. 12	Grand Trunk	Fort Erie, Ont	1			Collision, in yard. Freight train entering yard collided with cars attached to switch engine. Car repairer riding on car killed. Signalman and engineer of freight train responsible; failed to observe Sec. 278 of Railway Act, 1903, and come to full stop at railway level crossing.
2597								

CAUSES of One Hundred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board—*Con.*

COLLISIONS—*Con.*

Reference to Board.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident—Party Responsible.
No.	1907.	1907.					
307	" 4	" 4	Grand Trunk.....	Galt, Ont.....		3	Collision—due to misplaced switch. Section foreman turned main track switch for siding passenger train due and collided with cars in siding. Two passengers and conductor injured. Section foreman responsible.
2534							
313	Nov. 14	" 26	Ottawa Electric Ry. and Grand Trunk.....	Ottawa, Ont..... Queen St. crossing..... ...			Collision—on diamond. Electric car failed to stop and collided with G. T. Ry. train passing over crossing. No person injured. Due to defective brake on electric car and reversing power out of order.
318	" 4	" 12	Canadian Northern Quebec Ry.....	L'Assomption, Que.		1	Collision, head-on. Freight trains collided—one engineer injured. Engine short of water, left train and proceeded to water tank, left flagman to protect engine against No. 26. Returning with train. Due to failure of flagman to stop No. 26 train, as instructed. Brakeman responsible.
2775							
319	" 14	Sept. 2	Canadian Pacific.....	North Bay, Ont.....	1		Collision, in yard. Turning switch wrong. Switch engine collided with cars in repair track. Due to some unknown person turning switch which was without a lamp. Yard foreman fatally injured.
2363							
336	Dec. 16	Dec. 12	Grand Trunk....	Hamilton, Ont.....		6	Collision, in yard. Passenger train collided with light engine standing on main track. Five passengers killed and passengers injured. Due to signalman giving proceed signal to passenger train before ascertaining that main track was clear, and neglect of engineer and fieman of light engine to use red fusees.
2639							
339	" 14	Nov. 12	Conadian Pacific.....	St. Clet, Qnebec.....	1	2	Collision, rear-end. Rear-end collision between freight trains. One fireman killed and two brakemen injured. Engineer of second train responsible.
2673							
349							
2652	" 3	Oct. 30	Canadian Pacific...	Fushimi siding.....	2	3	Collision, head-on. Passenger and freight train collided. One fireman and one express messenger killed. One mail clerk, one engineer, and one express messenger injured. Canductor and engineer of passenger train responsible. Failed to wait at Fushimi until time specified in train order expired.
355	" 16	" 31	Grand Trunk.....	Wyoming, Ont.....		1	Collision. Engine was turned on Y, handled by fireman and collided with train. One passenger injured. Engineer and fireman responsible.
2668							

362	"	16	Nov.	12	Canadian Pacific	Blind River		1	Collision, head-on. Two freight trains collided. One brakeman injured. East train pulled ahead to back into siding. Engineer of west train responsible. He released air brake before train was under control.
2676									
364	"	4	Mar.	4	Grand Trunk	Toronto, Ont., Pape Ave		3	Collision, rear-end. Freight train received order that passenger train would run late. Copy of order not delivered to passenger train. Passenger train collided with freight on curve. Three passengers injured. Grand Trunk Ry. responsible.
1594									
368	Nov.	28	Nov.	3	Grand Trunk	Falconburg, Ont		3	Collision, head-on. Freight train fouled main track on time of superior train, resulting in collision. Mail clerk, engineer and fireman of passenger train injured. Engineer and conductor of freight train responsible.
2707									
370	Dec.	3	"	14	Canadian Pacific	Moor Lake	7	13	Collision, head-on. Light engine collided with passenger train No. 8. Two passengers in baggage car, the baggageman and express messenger lost their lives by fire—the cars taking fire from the acetylene gas. Two engineers and one fireman killed. One fireman aud one mail clerk and eleven passengers injured. Due to engineer of light engine failing to clear main track for passenger train.
2700									
			1906.						
373	"	12	Dec.	4	Can. Northern	Humbolt Yard	1		Collision, in yard. While switching engine collided with cars in elevator siding. Brakeman riding on pilot of engine crushed and fatally injured. Section foreman turned switch and is responsible.
1379									
			1907.						
374	"	4	Jan.	31	Can. Northern	Invernay		1	Collision, head-on. Two passenger trains running extra collided. One passenger injured. Due to failure of train-despatcher to advise westbound train *re* position of eastbound train, the engine of which was dead, and engineer of eastbound train approaching station not under control.
1511–& 12									
383	"	4	Nov.	6	Grand Trunk	Fort Erie, Cnt		1	Collision, in yard. Engines collided on shop track. One fireman injured. No head lights lit on either engine. Engineers responsible.
2709									
389	"	12	"	12	Grand Trunk	St. Polycarpe Jct., Que	1		Collision, head-on. Collision between two extra trains. One fireman fatally injured. Both engines runuing without proper head lights. Engineer of westbound train passed east switch at meeting point. Engineer of westbound train responsible.
2715									
398	"	18	Oct.	29	Canadian Pacific	Lethbridge	1		Collision, rear-end. Yard crew made up freight train on main line opposite station, and left standing without protection. Incoming train received no warning or notice, backed into it. One brakeman fatally injured. Yard foreman responsible.
2695									
406	Dec.	16	Nov.	26	Canadian Pacific	Smith Falls, Ont	....	1	Collision in yard. Passenger train being pushed by yard engine, collided with side of freight train pulling into yard. Baggageman injured. Yard foreman was controlling train by means of angle cock. When he opened angle cock, brakes failed to apply; did not make test before starting. Yard foreman responsible.
2940									
423	Jan.	10	"	19	Canadian Pacific	Sherbrooke, Que	...	7	Collisiou.—Freight train set out cars in siding and failed to turn switch for main track. Passenger train No. 209 ran into siding and collided with cars. Engineer did not notice switch in time to stop. Two passengers, two mail clerks, conductor, engineer and baggageman injured. Brakeman and conductor of freight train responsible.
2705									

CAUSES of One Huudred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board—*Con*

COLLISIONS—*Con.*

Reference to Record.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident—Party Responsible.
No.	1907.	1907.					
438	Dec. 16	May 28	Canadian Pacific.....	Smith Falls, Ont	....	1	Collision in yard. Passenger train turned on Y and, pushed by yard engine, collided with cars on siding. One passenger injured. Yardman responsible.
2885							
468	Feb. 11	Dec. 24	Grand Trunk.....	Niagara Falls, Ont	....	9	Collision with yard engine. Passenger train No. 7 collided with switch engine No. 92. Six passengers and three employees injured. Due to switchman giving No. 7 clear signal before switches were lined up for main track and engine No. 92 clear.
2856							
476	Jan. 7	" 11	Grand Trunk..... ...	Arnprior, Ont.....	....	2	Collision, head-on. Freight train pulled out draw-bar and was taking disabled car to siding, one-half mile east of Arnprior. Sent out flagman to stop passenger train No. 51, but followed too closely, resulting in collision. Engineer and fireman of passenger train injured. Conductor and engineer of freight train responsible.
2871							
482	" 22	Jan. 3	Canadian Pacific and Ottawa Electric Ry.	Ottawa, Ont., St. Patrick St. crossing.	1	5	Collision on public street crossing. Freight train collided with electric car on street crossing. One labourer killed, three passenger on electric car, conductor and motorman were injured. Conductor and motorman of electric car responsible.
3097							
486	" 28	Dec. 30	Canadian Pacific.....	Rigaud, Que	..	3	Collision, head-on. Extra passenger train and extra freight collided at water tank on main track in blinding snow storm. Engineer, conductor and brakeman of freight train injured. Due to disabled semaphore. Agent responsible for not reporting same to superintendent.
2844							
499	Feb. 11	Jan. 2	Wabash and Grand Trunk Joint System.	Tilsonburg, Ont.....	2	....	Collision.—Freight train left part of train in siding and proceeded to Corinth. Engine returning for rear part collided with freight train No. 93. Engineer killed and brakeman fatally injured. Conductor of freight extra responsible.
2908							
506	" 10	" 18	Grand Trunk.....	South Parkdale, Ont.....	1	2	Collision, rear-end. Freight train pulled out of siding and light engine running tender first collided with rear of freight train which had boarding car next caboose. One man fatally and two seriously injured. Due to Grand Trunk Railway turning light engine tender first. Engineer of light engine, conductor and brakeman of freight train responsible.
2955							
512	" 18	Dec. 20	Canadian Pacific.....	Gurney. Ont.....	....	3	Collision, head-on. Extra west with engine and van collided with third section of No. 124. Three employees injured. Due to failure of conductor and engineer of extra west to notice green signals on second 124 when meeting that train at Gurney.
3026							

514	Mar.	3	Jan.	30	Grand Trunk.....	St. Martins, Que.....	1	....	Collision, rear-end. Extra 608 switching was struck by following train. One fireman fatally injured. Due to failue of conductor of 608 to protect.
2968									
525	Feb.	17	Feb.	1	Grand Trunk.....	Turcot Yard, Que.....	2	....	Collision, rear-end. Engines 568 and 756 coupled was struck by No. 27 passenger train. Engineer and fireman of engine 508 on No. 27 killed. Due to stormy weather and failue of flagman to properly flag, and enngineer of engine 508 on No. 27 to keep a sharp look out and run cautiously through Turcot yard, and engineers of engines 568 and 756 coupled occupying main track unnecessarily.
3009									
528	"	27	"	11	Grand Trunk-Wabash Joint System.	Fort Erie, Ont.....	....	13	Collision, head-on. Passenger No. 9 collided with extra freight 1901. Twelve passengers and one enployee injured. Due to train despatcher not knowing location of Fort Erie and failing to secure passenger train No. 9 before advancing freight train by train order.
529	Mar.	9	"	10	Grand Trunk.....	Port Colborne, Ont.....	....	17	Collision, head-on Passenger train No. 37 collided with extra 775 at Port Colborne. Fourteen passengers, two mail clerks and one employee injured. Due to semaphore frozen up and failure of extra 775 to protect. Crew on duty 20 hours. Conductor, brakeman and engineer responsible.
3069									
531	"	9	Jan.	30	Grand Trunk.	Scarboro' Junction, Ont.....	....	3	Collision, rear-end. Extra freight train 735 experienced air brake trouble, account extreme cold weather, and rear was struck by freight train No. 60 Engineer and fireman injured and brakeman's feet frozen. Due to Engineer on No. 60 not being able to see ahead on account of steam blowing at front end of engine and failure of conductor of 735 to protect by flagman.
3010									
549	"	24	"	31	Michigan Central.....	West Lorne, Ont.....	....	1	Collision on siding. Extra freight 7603 backing into siding during a blinding snow storm collided with extra freight 8138, which had pulled into siding from opposite end. One brakeman injured. Due to failure of conductor of 7603 to protect his train backing into siding and stormy weather.
2970									
555	"	23	Mar.	11	Canadian Pacific.....	Guelph Junction, Ont.....	1	....	Collision in yard. Second No. 3 passenger train collided with engine 402. Engineer of second No. 3 killed. Due to brakeman opening main track switch, allowing passenger train to enter Guelph branch.
3099									
571	April	1	Feb.	19	Canadian Pacific.....	Agincourt, Ont.	..	1	Collision —Snow plow collided with No. 55 freight train in Agincourt yard. Foreman of plow seriously injured. Due to failure of snow plow to stop and take siding at first switch. Plow foreman, engineer and conductor responsible.
3053									
						Totals.....	53	177	

CAUSES of One Hundred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board—*Con.*

DERAILMENTS.

Reference to Record.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident and Party Responsible.
No.	1907.	1907.					
77	Apl. 10	Jan. 21	Grand Trunk Ry.	Oakville, Ont.	....	....	Derailment of train No. 92 at 2 miles west of Oakville, caused by broken journal under car M.C.L. 4631.
1748							
81	" 25	Apl. 10	Canadian Pacific Ry.	Brunel Station, Ont.	15	9	Derailment of passenger train No. 1, caused by broken rail. (6 children). Unexplained.
1728							
87	May 13	May 3	Central Vermont.	Waterloo, P.Q.	1	....	Derailment of Work train, running tender first, at a speed of between 18 and 20 miles an hour, due to defect of roadbed. Careless running.
1814							
88	" 28	Apl. 29	Canadian Pacific Ry	Nepigon Sec.	3	....	Derailment—First section of No. 120 ran into burnt bridge at mileage 50-73 Engineer, fireman and front end brakemen killed.
1847							
96	July 15	June 4	Canadian Pacific Ry	Sand Point.	1	....	Derailment—Broken rail was being replaced on account of expansion closing in, the new rail had to be cut. Protecting signal not placed the distance required by the rules, from the defective point. Road foreman responsible.
1987							
131	" 27	July 5	Canadian Northern Ry.	Sleeman mile west of.	2	1	Derailment—Passenger train No. 2 struck 4 cows on track. Engine, baggage and second class cars and part of first class car derailed. Engineer and fireman fatally injured, and one passenger injured. Due to right of way not being fenced.
2052							
182	Sept. 8	" 5	Grand Trunk.	Allanburg, Ont.	....	2	Derailment—Engine running tender first—Tender wheel mounted rail and tender and engine overturned. Engineer and fireman injured. Accidental.
2168							
195	" 21	Sept. 3	Canadian Pacific Ry.	Horse Shoe Curve near Caledon, Ont.	6	95	Derailment—Engine jumped track. Excursion train approached Horse Shoe Curve at high speed—Engine and six cars left the track six passengers killed and 95 injured. Cars badly damaged; estimated $55.000 Due to high speed. Engineer responsible.
2367							
198	Oct. 12	July 7	Canadian Pacific Ry.	Cardwell Jct., Ont.	....	1	Derailment—Steam crane derailed—Employee of same injured. Due to high speed. Engineer responsible.
2450							

206	Sept. 23	Dec. 30	Canadian Pacific Ry....	Crown Point, B.C.....	1	4	Derailment—Train ran away coming down hill. Engineer lost control. Engine and eleven cars left track. Engineer killed; conductor, fireman and two brakemen injured. The air pump on engine gave out descending the hill.
1398							
214	" 30	Feb. 2	Canadian Pacific Ry....	Phoenix.....	1	....	Derailment—A train loaded with ore descending heavy grade ran away. One brakeman killed. Engineer failed to control train by air brake and cars derailed. Due to poor judgment of engineer and poor condition of air-brake equipment.
1508							
215	" 30	June 30	Canadian Pacific Ry....	Southesk.....	1	1	Derailment and explosion of gas tank. Four (4) refrigerator cars of fish attatched to passenger train. The two (2) cars next engine were derailed and seven other cars left the track and took fire. One of the gas tanks exploded. Express messenger killed and Chinaman injured. Accidental.
2321							
222	" 30	Sept. 24	Bay of Quinte Ry.....	Erinsville, Ont.....	....	....	Derailment—Engine coming out of ballast pit derailed by broken rail. Accidental.
371	Dec. 12	Aug. 14	Grand Trunk.....	Otter Lake, Ont.....	....	1	Derailment—Engine running tender first, derailed. Engineer injured. Cause unknown.
2917							
387	" 16	Oct. 8	Canadian Pacific Ry....	Tweed, Ont.....	1	...	Derailment—Brakeman on top releasing hand brake, car derailed and brakeman fatally injured. Due to defective car truck. C.P.R. responsible.
2526							
397	" 16	Nov. 19	Grand Trunk.....	Goderich, Ont.....	1	....	Derailment—Brakeman on top of leading car with engine pushing 14 cars; leading car derailed by striking cattle. Brakeman thrown from top of car and fatally injured. Due to railway track not being fenced, allowing cattle to stray on track. G.T.Ry. responsible.
2750							
401	" 18	Aug. 12	Canadian Pacific Ry....	McLeod Jct.....	3	....	Derailment—Passenger train running at high speed around sharp curve, engine and cars left track and turned over. Engineer, fireman and coal passer killed. Due to high speed. Engineer and conductor responsible.
2375							
	1808.						
431	Jan. 11	Dec. 23	Canadian Pacific Ry....	Beaucage, Ont.....	....	....	Derailment—Engine on passenger train No. 8 disabled and was being towed to North Bay. Main driving axle broke and engine and 9 cars derailed. No person injured. Due to broken driving axle on engine 862. Accidental.
	1907.						
435	Dec. 18	Jan. 7	Canadian Pacific Ry....	Kaministikwia.....	2	1	Derailment—Account of broken rail. Passenger train No. 2 derailed and turned over on side. Two dining car employees killed and one mail clerk injured. Passengers shaken up. Due to broken rail on curve.
1440							
	1908.						
474	Jan. 9	Dec. 16	Canadian Pacific Ry....	Angler, Ont.....	2	1	Derailment—Section foreman changing defective rail, not knowing that No. 96 was late and had not passed. Sent out flagman who failed to place torpedoes and was caught on trestle by No. 96, was unobserved by engineer, weather was stormy. Engineer and fireman fatally and mail clerk injured. 165 passengers on train, none injured. Section foreman responsible.
2800							

CAUSES of One Hundred and Twenty-two Prominent Train Accidents. which were Investigated and Reported to the Board—*Con.*

DERAILMENTS—*Con.*

Reference to Record.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident and Party Responsible.
No.	1908.	1907.					
483	" 22	1908. Jan. 1	Grand Trunk.	Vespra, Ont.....	....	20	Derailment—Passenger train derailed on high embankment. Cars turned over, caught fire and burned up. 16 passengers and 4 employees injured. All equipment in good order. Due to some unknown obstruction getting under wheels of tender.
2873							
487	Mar. 10	1907. Dec. 24	Grand Trunk.....	Ben Allen, Ont.....	....	1	Derailment—Engine with snow plow, flanger and caboose was derailed. Conductor seriously injured. Due to mould board of flanger catching in guard rail and flanger being placed ahead of caboose.
2880							
489	Feb. 11	1908. Jan. 3	Canadian Pacific Ry....	Roberts Station, Ont.....	1	15	Derailment—Passenger train No. 2 derailed. One passenger killed; 11 passengers and 4 employees travelling passenger injured. Due to broken rail which had manufacturer's defect.
2861							
493	Jan. 30	" 27	Canadian Pacific Ry....	Sunshine.....	....	....	Derailment—Freight train No. 76 derailed. No person injured. Due to broken wheel.
496	" 30	Mar. 19	Canadian Pacific Ry....	Carlstadt.....	....	1	Derailment—Westbound passenger extra derailed. One passenger's foot taken off. Due to spreading of rails.
1719							
510	Feb. 18	Dec. 18	Grand Trunk.	Alford Station, Ont.....	....	3	Derailment.—Passenger train No. 44 derailed. Two passengers and one employee injured. Due to defective track. Railway company responsible.
3063							
519	" 25	Jan. 27	"	Merritton, Ont....	1	....	Derailment.—Two freight trains approaching on parallel tracks, two forward cars of one derailed and fouled parallel track, and train on that track crashed into wreckage. One brakeman fatally injured. Due to brake head dragging on G.T.R. 28110
3000							
524	Mar. 9	Feb. 17	Can. Pacific	Pardee, Ont., 3 miles west...	1	15	Derailment.—Passenger train No. 2 was derailed. Twelve passengers injured, one seriously. Three employees injured, one killed. Due to broken tire on mail and express car. Tire had manufacturer's defect.
3025							

527	Feb.	27	"	9	Grand Trunk & Wabash Joint System.	Delhi, Ont., 2 miles east.....	....	4	Derailment.—Passenger train, 2nd No. 1, derailed. Four passengers injured. Due to broken rail which had manufacturer's defect.
534	Mar.	10	"	3	Grand Trunk.	Madawaska, Ont., 8 miles. East	....	1	Derailment.—Snow plow extra, engine 1374 westbound. Two cars and caboose derailed. Three employees injured. Due to shearing of angle bolts account of contraction of rails.
3045									
546	"	23	"	28	Can. Pacific	Eganville Jct., Ont..... ..	....	1	Derailment.—Passenger train No. 96 derailed. One dining-car employee injured. Due to broken rail.
3058									
556	"	30	"	15	Grand Trunk.	Hawthorne, Ont miles east of Ottawa.	2	7	Derailment.—Passenger train No. 27 was derailed at 10.15 p.m. Four passengers, one express messenger, conductor and baggage-man injured. Fireman killed and engineer fatally scalded. Due to broken rail. Engine 1028 had flat spots 3 inches long on driving wheels.
3034									
560	"	21	"	13	"	Turcot Yard, Que.....	1	1	Derailment.—Switch engine pulling cars out of yard. Car S.C.L. 2559 derailed and struck a labourer who was standing between tracks, fatally injuring him. Another labourer was slightly squeezed. Men were warned to stand clear, and all did so but these two. Due to snow and ice on track. Accidental.
3067									
							46	185	

CAUSES of One Hundred and Twenty-two Prominent Train Accidents, which were Investigated and Reported to the Board—*Con.*

MISCELLANEOUS TRAIN ACCIDENTS.

Reference to Record.	Date of Report.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident and Party Responsible.
No.	1907.	1907.					
75	April 10	Jan. 16	Grand Trunk.	Jordan, Ont.	....	2	Boiler explosion. Failure to keep engine boiler supplied with water. Crown sheet dropped, blowing fire and grate into ashpan. Engineer responsible.
1431							
94	June 13	May 24	"	Toronto, Bay St. crossing.	2	2	The accident occurred on Victoria Day at 11 p.m., while a great number of people were returning from the ferry boats, having to cross 11 railway tracks, without any means of protection against movement of train in and out of Union Station. No gateman on duty at night.
1939							
119	Sept. 7	July 9	Central Vermont.	St. Alexander, Que.	....	3	Boiler explosion. Boiler of freight engine exploded, due to shortage of water. Engineer, conductor and fireman injured. Engineer responsible.
2053							
190	Aug. 27	" 26	Wabash & Grand Trunk Joint System.	Simcoe, Ont.	3	....	Boiler explosion. Boiler of freight engine exploded. Engineer instantly killed, fireman and brakeman fatally injured. Boiler in apparent good condition prior to accident. Engineer responsible. Engine and three cars damaged. Overhead bridge at point of accident destroyed.
2235							
194	Sept. 7	Aug. 10	Michigan Central.	Essex, Ont.	2	31	Explosion of dynamite. 100 boxes of dynamite, 5,000 lbs. in transit, Black-rock to Amherstburg, exploded. The car was not given the necessary attention or quick despatch. Baggage-man and brakeman instantly killed; conductor, engineer, fireman, telegraph operator and 27 other persons injured. Due to delay in transit and careless handling, being loaded in same car as ordinary freight.
2250							
343	Nov. 23	Oct. 20	Grand Trunk.	Newbury, Ont.	2	....	Boiler explosion. Boiler exploded, engineer killed and fireman fatally injured. Due to low water in boiler. Responsibility unexplained.
2654							
400	Dec. 18	" 17	McDonell, Gzowski & Co., contractor for diversion of track on C.P.R.	Rogers Pass, B. C.	1	3	Lost control of train. Construction train of engine and 14 cars, without air or hand-brake appliances, ran away and dropped over end of trestle. Fireman killed; engineer and two labourers injured. McDonell, Gzowski & Co. responsible.
2736							
432	" 16	Nov. 22	Can. Pacific	Monklands, Ont.	....	....	Averted collision. Two freight trains met on main track 3 miles east of Monklands. Trains stopped before striking. No person injured. Night operator and train despatcher responsible.

436	"	18	June	2	"	Kalmar.....	1	.... Struck by mail crane. Fireman looking out of cab window struck on head by mail crane and fatally injured. Due to mail crane being placed too close to track.
2231								
481	Jan.	30	Dec.	31	"	Deux Rivières, Ont.....	1	2 Boiler explosion. Boiler of engine 1550 exploded; brakeman fatally injured, fireman seriously and engineer slightly. Due to low water in boiler. Engineer responsible.
2245								
500	Feb.	18	Jan.	1	Pere Marquette Ry.....	St. Thomas Jct., Ont.....	1	.... Struck by switch stand. Brakeman riding on side ladder of car was struck by switch stand and fatally injured. Due to switch stand placed too close to track.
2982								
520	"	25	"	30	Michigan Central.	Ruscomb, Ont.....	1	.. Boiler explosion. Boiler of engine 7551 exploded and fireman fatally injured. Due to low water in boiler.
566	April	1	"	1	Grand Trunk.	Aberarder, Ont.	....	1 Struck by mail crane. Fireman leaning out between engine and tender on No. 2 passenger train was struck by mail crane and injured. Due to mail crane placed too close to track.
2374							14	44

MISCELLANEOUS INVESTIGATIONS.

Reference to Record No.	Date of Report.	—	—
	1907.		
80	April 19	Files 4192 and 4198 Marieville & Granby..	Complaints made by manufacturers, merchants and business men respecting train service and lack of facilities on Central Vermont.
83	May 6	File 3747	Clemmson's signal system.
84	May 7	" 1726	Underwood safety device.
105	June 19	" 2156	Middlemiss train service, Wabash Railway.
110	July 5	Report on	Hours of labour in force in the United States and European countries.
(2nd) 119	Nov. 4	" "	Employment of engineer, dismissed and re-employed.
120	July 13	" "	Passenger trains on the Canadian Northern, Quebec.
121	June 28	" "	Sunnyside crossing, Toronto Terminal, Grand Trunk Ry.
126	July 16	" "	Fire extinguishers for passenger coaches.
128	July 22	" "	Mr. Chaput's complaint: Condition of St. Rose, in the Canadian Pacific.
(2nd) 136	Sept. 30	" "	Overhead wires at Merritton, on both the G. T. Ry. and N. St. C. & T. Electric Ry.
144	Aug. 7	File 1806	Chambly Basin, Que., on Central Vermont.
148	Aug. 20	Report on	Condition of packing in frogs, switch guard and wing pails.
(2nd) 184	Dec. 6	" "	Changing of switch stand in Allandale yard.
191	Aug. 24	" "	Defects in safety appliances at Bradford, Aurora, Newmarket and Allandale, G. T. Ry.
193	Aug. 21	Files 234 and 4053.....	Stone station on Central Vermont.
201	Sept. 18	File 4546, Case 1216....	Petition of residents of Long Point, N. S., on the Inverness Railway & Coal Co.
226	Oct. 8	" 5475.....	Complaint of G. A. Marson re irregular train service between St. Hilaire and Montreal, G. T. Ry.
235	Dec. 4	Report on	Irregularity of passenger train on C. P. R. between Perth and Montreal.
239	Oct. 15	File 5655	Complaint of G. H. Fawcett *re* irregularity of train on Central Vermont.
376	Nov. 14	Report on	Transportation of dangerous explosives.
386	Dec. 3	" "	Brakeman on duty on passenger train under influence of liquor.
Spcl. 44	Dec. 16	" "	New rules of New York Central and H. R. R.
Spcl. 45	Dec. 18	" "	Employees moving couplers with their feet.
	1908.		
Spcl. 47	Feb. 18	" "	Crossing west of Jerseyville.
Spcl. 48	Feb. 5	" "	Blackboard at Blenheim.
Spcl. 51	Feb. 16	" "	Age for fireman to start in Western Section.
Spcl. 52	Mch. 31	File 7022, Case 3042....	Rules and regulations on Quebec, Montreal & Southern Ry.

INSPECTION OF RAILWAYS.

Reference to Record No.	Date of Inspection.	Name of Railway.
	1907.	
134	Aug. 20	Inspection of Canadian Northern, Quebec.
143	Aug. 10.....	" Central Vermont lines in Canada.
223	Oct. 7	" Bay of Quinte Railway.
225	Oct. 12.....	" Brockville, Westport and Northwestern Railway.

(Sgd.) ED. C. LALONDE,
Chief Inspector of Accidents.

THE BOARD

OF

RAILWAY COMMISSIONERS FOR CANADA

RULES AND REGULATIONS

DECEMBER 10, 1907

APPENDIX H.

(Meeting at Ottawa.)

MONDAY, the 10th day of December, A.D. 1907.

The board, in virtue of the provisions of the Railway Act, 1903, hereby makes the following rules and regulations:—

PUBLIC SESSIONS.

1. The general sessions of the board for hearing contested cases will be held at its court room in Otawa, Ont., on such dates and at such hour as the board may designate.

When special sessions are held at other places, such announcements as may be necessary will be made by the board.

INTERPRETATION.

2. In the construction of these rules, and the forms herein referred to words importing the singular number shall include the plural, and words importing the plural number shall include the singular number; and the following terms shall (if not inconsistent with the context or subject) have the respective meanings hereinafter assigned to them; that is to say, 'Application' shall include complaint under this Act; 'Respondent' shall mean the person or company who is called upon to answer to any application or complaint; 'Affidavit' shall include affirmation; and 'Costs' shall include fees, counsel fees and expenses.

APPLICATION OR COMPLAINT.

3. Every proceeding before the board under this Act shall be commenced by an application made to it, which shall be in writing and signed by the applicant or his solicitor; or in the case of a corporate body or company being the applicants shall be signed by their manager, secretary or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, the section of the Act under which the same is made, and the nature of the order applied for, or the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs, each of which, as nearly as possible, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively. It shall be endorsed with the name and address of the applicant, or if there be a solicitor acting for him in the matter, with the name and address of such solicitor. The application shall be according to the forms in schedule No. 1.

The application, so written and signed as aforesaid, shall be left with or mailed to the secretary of the board, together with a copy of any document, or copies, of any maps, plans, profiles and books of reference, as required under the provisions of the Act, (*a*) referred to therein, or which may be useful in explaining or supporting the same. The secretary shall number such applications according to the order in which they are received by him and make a list thereof. From the said list there shall be made up a docket of cases for hearing which, as well as their order of entry on the docket, shall be settled by the board. Said docket list when completed to be put upon a notice board provided for that purpose, which shall be open for inspection at the office of the secretary during office hours.

(*a*) For further particulars of plans, &c., see regulations in Appendix.

ANSWER.

4. Within ten days from the service of the application, the respondent or respondents shall mail or deliver to the applicant, or his solicitor, a written statement containing in a clear and concise form their answer to the application, and shall also leave or mail a copy thereof with or to the secretary of the board at its office, together with any documents that may be useful in explaining or supporting it. The answer may admit the whole or any part of the facts in the application. It shall be divided into paragraphs, which shall be numbered consecutively, and it shall be signed by the person making the same or his solicitor. It shall be endorsed with the name and address of the respondents, or if there be a solicitor acting for them in the matter, with the name and address of such solicitor. It shall be according to the form in schedule No. 2.

REPLY.

5. Within four days from the delivery of the answer to the application, the applicant shall mail or deliver a reply thereto to the respondents, and a copy thereof to the secretary of the board, and may object to the said answer as being insufficient, stating the grounds of such objection, or deny the facts stated therein, or may admit the whole or any part of said facts. The reply shall be signed by the applicant or his solicitor, and may be according to form No. 3 in the said schedule.

The board may, at any time, require the whole or any part of the application, answer or reply, to be verified by affidavit, upon giving a notice to that effect to the party from whom the affidavit is required; and if such notice be not complied with the application, answer or reply may be set aside, or such part of it as is not verified according to the notice may be struck out.

SUSPENSION OF PROCEEDINGS.

6. The board may require further information, or particulars, or documents from the parties, and may suspend all formal proceedings until satisfied in this respect.

If the board, at any stage of the proceedings, think fit to direct inquiries to be made under any of the provisions of this Act, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings thereon accordingly.

NOTICE.

7. In all proceedings under this Act, where notice is required, a copy or copies of said proceeding, or proceedings, for the purpose of service, shall be endorsed with notice to the parties in the forms of endorsement set forth in schedules Nos. 1 and 2; and in default of appearance the board may hear and determine the application *ex parte*.

Endorsements shall be signed in accordance with the provisions of section 41.

The board may enlarge or abridge the periods for putting in the answer or reply, and for hearing the application, and in that case the period shall be endorsed in the notice accordingly.

Except in any case where it is otherwise provided, ten days' notice of any application to the board, or of any hearing by the board, shall be sufficient; unless, in any case, the board directs longer notice. The board may, in any case, allow notice for any period less than ten days, which shall be sufficient notice as if given for ten days or longer. (Section 43.)

Notice may be given or served as provided by section 41 of the Act.

When the board is authorized to hear an application or make an order, upon notice to the parties interested, it may, upon the ground of urgency, or for other rea-

son appearing to the board to be sufficient notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice, and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the board may allow, apply to the board to vary, amend, or rescind such order or decision; and the board shall thereupon, on such notice to all parties interested as it may in its discretion think desirable, hear such application, and either amend, alter, or rescind such order or decision, or dismiss the application, as may seem to it just and right. (Section 45.)

CONSENT CASES.

8. In all cases the parties may, by consent in writing, with the approval of the board, dispense with the form of proceedings herein mentioned, or some portion thereof.

POWER TO DIRECT AND SETTLE ISSUES.

9. If it appears to the board at any time that the statements in the application, or answer, or reply, do not sufficiently raise or disclose the issues of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the board.

PRELIMINARY QUESTIONS OF LAW.

10. If it appear to the board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner as it may deem expedient, and the board may, pending such decision, order the whole or any portion of the proceeding before the board in such matter, to be stayed.

PRELIMINARY MEETING.

11. If it appear to the board at any time before the hearing of the application that it would be advantageous to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, the board may hold such meeting upon such notice to the parties as it deems sufficient, and may thereupon make such orders as it may deem expedient.

PRELIMINARY EXAMINATION WITH PARTIES.

12. The board may, if it thinks fit, instead of holding the preliminary meeting, provided for in rule 11, communicate with the parties direct, and may require answers to such inquiries as it may consider necessary.

PRODUCTION AND INSPECTION OF DOCUMENTS.

13. Either party shall be entitled, at any time, before or at hearing of the case, to give notice in writing to the other party in whose application, or answer, or reply reference was made to any document, to produce it for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put in such documents in evidence on his behalf in said proceedings, unless he satisfy the board that he had sufficient cause for not complying with such notice.

NOTICE TO PRODUCE.

14. Either party may give to the other a notice in writing to produce such documents as relate to any matter in difference (specifying the said documents) and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

15. Either party may give to the other party a notice in writing to admit any documents, saving all just exceptions, and in case of neglect to admit, after such notice, the cost of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be; unless, on the hearing, the board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the board, a saving of expense.

WITNESSES.

16. The attendance and examination of witnesses, the production and inspection of documents, shall be enforced in the same manner as it now enforced in a superior court of law; and the proceedings for that purpose shall be in the same form, *mutatis mutandis,* and they shall be sealed by the secretary of the board with the seal and may be served in any part of Canada. (Section 26.)

Witnesses shall be entitled, in the discretion of the board, to be paid the fees and allowances prescribed by schedule No. 4, annexed hereto.

THE HEARING.

17. The witnesses at the hearing shall be examined *viva voce;* but the board may at any time, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witnesses may be read at the hearing on such conditions as it may think reasonable; or that any witnesses whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a commissioner appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before such commissioner shall be confined to the subject-matter in question, and any objection to the admission of such evidence shall be noted by the commissioner and dealt with by the board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the adverse party. All examinations taken in pursuance of any of the provisions of this Act, or of these rules, shall be returned to the court; and the depositions certified under the hands of the person or persons taking the same way, without further proof, be used in evidence, saving all just exceptions. The board may require further evidence to be given, either viva voce or by deposition, taken before a commissioner or other person appointed by it for that purpose.

The board may, in any case when deemed advisable, require written briefs to be submitted by the parties.

The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the board may be practicable, from day to day.

JUDGMENT OF THE BOARD.

18. After hearing the case the board may dismiss the application, or make an order thereon in favour of the respondents, or reserve its decision, or (subject to the right of appeal in the Act mentioned) make such other order on the application as may be warranted by the evidence and may seem to it just.

The board may give verbally or in writing the reasons for its decisions. A copy of the order made thereon shall be mailed or delivered to the respective parties. It shall not be necessary to hold a court merely for the purpose of giving decision.

Any decision or order made by the board under this Act may be made an order of the Exchequer Court, or a rule, order or decree of any superior court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court. To make such decision or order a rule, order or decree of such court, the usual practice and procedure of the court in such matters may be followed, or in lieu thereof the form prescribed in subsection 2, section 46 of the Act.

The board shall, with respect to all matters necessary or proper for the due exercise of its jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights and privileges as are vested in a superior court. (Section 26.)

ALTERATION OR RESCINDING OF ORDERS.

19. Any application to the board to review, rescind, or vary any decision or order made by it shall be made within thirty days after the said decision or order shall have been communicated to the parties, unless the board think fit to enlarge the time for making such application, or otherwise orders.

APPEAL.

20. If either party desire to appeal to the Supreme Court of Canada from the decision or order of the board upon any question which, in the opinion of the board, is a question of law, he shall give notice (*c*) thereof to the other party and to the secretary, within fourteen days from the time when the decision or order appealed from was made, unless the board allows further time, and shall in such notice state the grounds of the appeal. The granting of such leave shall be in the discretion of the board.

For procedure upon such leave being obtained see section 56, subsection 4 *et seq.* of the Act.

An appeal shall lie from the board to the Supreme Court of Canada upon a question of jurisdiction; but such appeal shall not lie unless the same is allowed by a judge of the said court upon application and hearing the parties and the board.

INTERIM EX PARTE ORDERS.

The costs of such application shall be in the discretion of the judge.

21. Whenever the special circumstances of any case seem to so require, the board may make an interim *ex parte* order requiring or forbidding anything to be done which the board would be empowered upon application, notice and hearing to authorize, require or forbid. Nn such interim order shall, however, be made for a longer time than the board may deem necessary to enable the matter to be heard and determined. (Section 49.)

AFFIDAVITS.

22. Affidavits of service according to form No. 6 shall forthwith, after service, be filed with the board in respect of all documents or notices required to be served under these rules; except when notice is given or served by the secretary of the board, in which case no affidavit of service shall be necessary.

All persons authorized to administer oaths to be used in any of the Superior Courts of any province, may take affidavits to be used on any application to the board.

Affidavits used before the board, or in any proceeding under this Act, shall be filed with the secretary of the board at its office.

When affidavits are made as to belief, the grounds upon which the same are based must be set forth.

(*c*) For form of notice see form No. 5 in the schedule hereto.

COMPUTATION OF TIME.

23. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by this Act, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day or Good Friday, or a day appointed for a public fast or thanksgiving in the Dominion or any of the provinces, in which case the time shall be reckoned exclusively of that day also.

ADJOURNMENT.

24. The board may, from time to time, adjourn any proceedings before it.

AMENDMENT.

25. The board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the board, may tend to prejudice, embarrass or delay a fair hearing of the case upon its merits; and all such amendments shall be made as may, in the opinion of the board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

FORMAL OBJECTIONS.

26. No proceedings under this Act shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

PRACTICE OF EXCHEQUER COURT WHEN APPLICABLE.

27. In any case not expressly provided for by this Act, or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the board, to proceedings before it.

COSTS.

28. The costs of and incidental to any proceedings before the board shall be in the discretion of the board, and may be fixed in any case at a sum certain, or may be taxed. The board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

SCHEDULE No. 1.

(Forms of Application.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

APPLICATION No. (This No. is to be filled in by the secretary on receipt.

A. B. of C. D. hereby applies to the board for an order under sections 252-253 of the Railway Act, 1903, directing the railway company to provide and construct a suitable farm crossing where the company's railway intersects this farm in Lot Con. Tp. County of Ontario, and states—

1. That he is the owner of the land, &c.
2. That by reason of the construction of said railway he is deprived, &c.
3. That it is necessary for the proper enjoyment of his said land, &c.

Dated this day of A.D. 19 .

(Signed A. B.)

Endorsements.

The within application is made by A. B. of
(state address and occupation) or by C.D. of his solicitor.

Take notice that the within named railway company is required to file with the Board of Railway Commissioners within ten days from the service hereof, its answer to the within application.

(Form of Application.)

(Where no Notice Required.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No.

The railway company hereby applies to the board for an order under section 167 of the Railway Act, 1903, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between and , mileage to .

Dated this day of A.D. 19 .

(Signed A. B.)

SCHEDULE No. 2.

(Form of Answer.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application, No. of A.B. for an order under sections 252-253 of the Railway Act, 1903, directin Railway Company to provide a farm crossing.

The said company in answer to the said application states:—

1. That the said A.B. is not the owner but merely, &c.

2. That upon the acquisition of the right of way of the said railway, A.B. was duly paid for and released, &c.

3. That the said A.B. has other safe and convenient means, &c.

4. That, &c.

Dated, &c.

Endorsements.

The within answer is made by A.B. of
(state address and occupation) or by C.D. of his solicitor.

Take notice that within named applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

SCHEDULE No. 3.

(Reply.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A.B. against the Company.

The said A.B., in reply to the answer of the said Company states that:—

1.

2. And the said A.B. admits that

Dated this day of A.D. 19

(Signed) Q.

SCHEDULE No 4.

(Fees and allowances to witnesses.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

To witnesses residing within three miles of the court-room, per diem, (not including ferry and meals)..... $1 00

Barristers, attorneys, and physicians, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinion, per diem..... 5 00

Engineers, surveyors and architects, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill and judgment, per diem..... 5 00

If the witnesses attend in one case only, they will be entitled to the full allowance. If they attend in more than one case, they will be entitled to a proportionate part in each case only.

When witnesses travel over three miles they shall be allowed expenses according to the sum reasonably and actually paid, which in no case shall exceed twenty cents per mile one way.

SCHEDULE No. 5.

(Notice of Appeal.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the Application No , of A.B. for an order under sections 252-253 of the Railway Act, 1903, authorizing the Railway, &c., &c.

To the Board of Railway Commissioner,

and

To

The above named applicant (or respondent, as the case may be.)

Take notice that the company will apply to the Board on the day of , (not exceeding 14 days from the date thereof), for leave to appeal to the Supreme Court of Canada for an order of the Board, dated the day of , in the matter of the above application authorizing the expropriation of certain lands referred to in said order, and directing that compensation or damages to be awarded to the owners of said lands, or persons interested therein, shall be ascertained as and from the date of the application, (or such other time as may be named in this order.)

The grounds of appeal are that, as a matter of law, the awarding of such compensation or damages should be ascertained and determined from the date of the deposit of plan, profile, &c., as provided under section 192 of the Act, and not from the time stated in the order.

Dated this day of

(Signed),

Solicitor, &c.

SCHEDULE No. 6.

(Form of Affidavit of Service.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. , of A. B. for an order under sections 252-253 of the Railway Act, 1903, directing Railway Company to provide a farm crossing.

I, of the city of Ottawa, &c., make oath and say:—

1. That I am a member, &c.

2. That I did on 19 , serve the (C.P.) Railway Company above-named, with a true copy of the (applicaton) of the said (A. B.) in this matter by delivering the same to (C.D.) the (Secretary) of the said company, (or to E. F. the delivering the same to (C.D.) the (secretary) of the said company, (or to E.F. the assistant to the general manager) of the company, being an adult person in the employ of the company at the head office of the company in (Montreal), see section 41 (), which said copy was endorsed with the following notice, viz.:—

(Copy exactly.)

Sworn, &c.

REQUIREMENTS ON APPLICATION HAVING REFERENCE TO PLANS.

No. 1.—General Location of Railway.—Section 157.

Send to secretary of the Department of Railways and Canals, three copies of map showing the general location of the proposed line of railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tide-water, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and generally the physical features of the country through which the railway is to be constructed.

First copy to be examined and approved by the minister and filed in the Department of Railways and Canals.

Second copy to be approved by minister for filing by the company with the board.

Third copy to be approved by minister for the company.

Scale of map—not less than 6 miles to the inch.

No. 2.—Plan, Profile, &c., of Located Line.—Section 158.

Upon approved general location map being filed by the company with the board, send to the secretary of the board three sets of plans, prepared exactly in accordance with the 'general notes'* as follows:—

1st set—{1 plan. 1 profile. 1 book of reference.} To be examined, sanctioned and deposited with the board

2nd set—Same as 1st. To be examined, certified and returned for registration.

3rd set—Same as 1st. To be certified and returned to company.

Scale—Plans—400 feet to the inch.

(N.B.—In prairie country, scale may be 1,000 feet to the inch.)

Profiles. {Horizontal, 400 feet. Vertical, 20 feet.

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* General Notes, see pages 17 and 18.

No. 3—To Alter Location of Curves or Grades of Line Previously Sanctioned or Completed.—Section 167.

Send to the secretary of the board three sets of plans, profiles and books of reference as required in No. 2.

(N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves and railway highway and farm crossings, and the changes desired or necessitated in any of these.)

Scale—Same as No. 2.

No. 4—Plans of Completed Railway.—Section 164.

Send to the secretary of the board within six months after completion three sets of plans and profiles of the complete road.
1st set to be filed with the board.
2nd set to be certified and returned to the company.
3rd set for registration purposes.

Scale—Same as No. 2.

No. 5—To take Additional Lands for Stations, Snow Protection, etc.—Section 178.

Send to the secretary of the board three sets of plans and documents as follows:—

1st set—
- 1 application sworn to by officers required to sign and certify plans. See 'General Notes.'
- 1 plan, 1 profile.
- 1 book of reference.

} To be examined and certified and deposited with board.

2nd set—Same as 1st. } For certificate and return for registration with duplicate authority.

3rd set—Same as 1st. } For certificate and return to company, with copy of authority.

Scale—Same as No. 2.

N.B.—Ten days' notice of application must be given by the applicant company to the owner or possessor of the property, and copies of such notice with affidavits of service thereof must be furnished to the board on the application.

No. 6—Branch Lines, not exceeding six miles—Sections 221-225.

(*a*) 1 plan, profile and book of reference same as No. 2 to be deposited in Registry Office.
Upon such registration four weeks' public notice of application to the Board to be given.
Send to the secretary of the board an application with copies of the plan, profile and book of reference certified by the registrar as a duplicate of those so deposited in the Registry Office.
A certified copy of the order authorizinz the construction of the branch lines to be registered together with any papers and plans showing changes directed by the board.
A map showing the adjacent country, neighbouring lines, &c., must be sent to the secretary of the board with the application.
Proof of registration and of public notice having been duly given will be required upon the application.

Scale—Same as No. 2.

No. 7—Railway Crossings or Junctions.—Section 227.

Send to the secretary of the board with the application three sets of plan of both roads at point of crossing.

Scale—Plan—100 feet to the inch.

Also three sets of plan and profile of both roads on either side of the proposed crossing for a distance of two miles.

Scale—Plan—400 feet to the inch.

Profile. { 400 feet to an inch horizontal. 20 feet to an inch vertical.

1st set approval by and filing with the board.

2nd and 3rd sets to be certified and furnished to the respective companies concerned, with certified copy of order.

The applicant Company must give ten days' notice of application to the company whose lines are to be crossed or joined, and shall serve with such notice a copy of all plans and profiles and a copy of the application. Upon completion of work application must be made to the Board for leave to operate.

No. 8—Highway Crossing—Sections 235 to 243.

Send to the Secretary of the Board with an application three sets of plans and profiles of the crossings.

Scale—Plan—400 feet to inch.

Profile. { 400 feet to an inch horizontal. 20 feet to an inch vertical.

Profile of highway. { 100 feet to an inch horizontal. 20 feet to an inch vertical.

1st set for approval by and filing with the Board.

2nd and 3rd sets to be furnished to the respective parties concerned, with a certified copy of the order approving the same.

The plan and profile shall show at least one-half a mile of the railway and 300 feet of the highway on each side of the crossing.

Plan must show intervening obstructions to the view from any point on the highway within 100 feet of the crossing to any point on the railway within one-half mile of the said crossing.

Where no notice of application is required, if the company prefers, the above information may be shown on the location plan, and this plan may be used in connection with its application for approval of the highway crossing.

Unless otherwise ordered by the board, the applicant must give ten days' notice of the application to the municipality in which the proposed crossing lies.

No. 9—Crossings with Wires for Telegraph, Telephones and Powers.—Section 246.

Send to the secretary of the board with the application a plan and profile in duplicate.

Profile must show the distance between the different lines of wire.

A copy of plan and profile to be sent to the railway company with notice of application.

No. 10—Crossings and Works upon Navigable Waters, Beaches, &c.—Section 233.

Upon sight and general plans being approved by the Governor in Council, send to the secretary of the board:—

Certified copy of Order in Council with plans and description approved thereby—1 application and 2 sets of detail plans, profiles, drawings and specifications.

1st set for filing with board.

2nd set to be certified and returned to company with certified copy of order.

Upon completion of work application must be made to the board for leave to operate

No. 11—Bridges, Tunnels, Viaducts, Trestles, &c., over 18 ft. span.—Section 257.

(*a*) Must be built in accordance with standard specifications and plans, approved of by the board.

(*b*) Or detail plans, profiles, drawings and specifications, which may be blue, white or photographic prints, must be sent to the secretary of the board for approval, &c., as in No. 9.

No. 12—Stations.—Section 258.

Send to the secretary of the board:—

Two sets of detail plans, profiles, drawings and specifications, with an application for approval.

1st set for filing with the board.

2nd set to be certified and returned to company with certified copy of order of approval.

General Notes.

Plans (for Nos. 2 to 6) must show the right of way, with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines, owners' names, the areas and length and width of land proposed to be taken, in figures (every change of width being given) the curves and the bearings, also all open drains, water-courses, highways and railways proposed to be crossed or affected.

Profiles will show the grades, curves, highway and railway crossings, open drains and water-courses, and may be endorsed on the plan itself.

Books of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion thereof proposed to be taken, and names of owners and occupiers so far as they can be ascertained.

All plans, profiles and books of reference must be dated and must be certified and signed by the president or vice-president or general manager, and also by the engineer of the company.

The plan and profile to be retained by the board must be on linen, the copies to be returned may be either white, blue or photographic prints.

All profiles shall be based, where possible, upon sea level datum.

All books of reference must be made on good thick paper and in the form of a book with a suitable paper cover. The size of such books when closed shall be as near as possible to 7½ inches by 7 inches.

Book of reference may be endorsed on the plan.

FORM OF BOOK OF REFERENCE REQUIRED.

..... Railway Company.

.....Division or Province.....Branch.

BOOK OF REFERENCE TO ACCOMPANY LOCATION PLAN SHOWING LANDS REQUIRED FOR RAILWAY PURPOSES.

Station to	Station.	Width of Railway.	Owner.		Centre of Book when open.	Part of	Section or Lot.	Township Parish Block or Number of Claim.	Range.	Contents Acres.	Remarks.

INTERLOCKING SYSTEM.

Rules governing the use of interlocking and derailing signals and speed of trains where one railway crosses another at rail level, or where a railway crosses a drawbridge.

1. The normal position of all signals must indicate danger.

2. When the distant semaphore indicates caution, the train passing must be under full control and prepared to come to a full stop before reaching the home signal.

3. When the home signal indicates danger, it must not be passed.

4. When clear signals are shown where one railway crosses another at rail level, the speed of passenger trains must be reduced to thirty-five miles an hour and freight trains to twenty miles an hour, until the entire train has passed the crossing.

5. When clear signals are shown where a railway crosses a drawbridge, the speed of passenger trains must be reduced to twenty-five miles an hour and the speed of freight trains to fifteen miles an hour, until the entire train has passed the drawbridge.

GENERAL REQUIREMENTS.

APPLICABLE TO STEAM RAILWAYS FOT INTERLOCKING, DERAILING AND SIGNAL SYSTEM AT CROSSINGS AT RAIL LEVEL AND AT JUNCTIONS.

The plan and construction of interlocking, signalling and derailing system to be used at rail level crossings and junctions of one railway by another must be arranged to conform to the following general rules:—

1. The normal position of all signals must indicate danger, derail points open and the interlocking so arranged that it will be impossible for the operator to give conflicting signals.

2. The derail points must be placed not less than 500 feet from point of intersection of the crossing of junction tracks, unless in special cases in which the board authorizes in writing a less distance.

3. On side track the position of derail points may be located so as to best accommodate the traffic, and provide the same measure of safety indicated in foregoing rules.

4. On single track railway derail points, when practicable, should be on inside of curve and on double track railway the derail points should be in outside rail on both tracks. On double track railways, back up derails will be required.

5. Home signal posts must be 50 feet beyond point of derail, and the distances between home and distant signals must not be less than 1,200 feet. Signal post should be placed on engineman's side of track it governs.

6. Guard rails should be laid on outside of rail in which the derail is placed and commence at least 6 feet toward home signal from point to derail, extending from thence toward crossing, parallel with and 9 inches distant from track rail, for 400 feet.

7. In case there are crossovers, turnouts or other connecting tracks involved in the general system, the movement of cars and trains upon which present an element of danger, which danger will be enhanced by the passage of trains on main tracks over crossings without stopping, and consequently at a higher speed than would be the case without the permit sought, then, and in all such cases whether such enhanced danger be of collision between cars and trains of the same railway, or between cars or trains of different railways, it will be necessary, in addition to the protection of the main crossing, to provide by proper appliance against any such increased collateral dangers in the same complete manner as is required in the case of the main crossing.

8. Application for inspection of interlocking plant must be made to the board accompanied by a plain diagram, showing location of crossing and position of all main tracks, sidings, switches, turnouts, &c.

The several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use. The rate of grade on each main track must be shown, together with numbers of signals, derails, locks, &c., corresponding to levers in tower.

It is intended herein to state general rules, which will govern the construction of any proposed system of interlocking. The traffic to be done, relative position and operation of intersecting lines may require safeguards not mentioned herein.

The system of derailing, signalling and interlocking must be connected and worked and be complete in each particular before the board will grant an order authorizing the operation of such interlocking, derailing and signal system, or the crossing by the railway ordered to put on the system.

GENERAL REQUIREMENTS FOR INTERLOCKING AT DRAWBRIDGES.

Interlocking, signalling and derailing systems to be used at drawbridges must be arranged to conform to the following general rules:—

1. The normal position of all signals must indicate danger, derail points open, and the interlocking so arranged that it will be impossible for the operator to open the draw until signals and derails are set against the approaching train movement.

2. Where the grade is practically level the drailing points shall be located not less than 500 feet from the ends of the bridge, but in case of a descending grade towards the bridge, the derailing point must be located at such distance from the bridge as to give the same measure of protection that is required for a level approach.

3. On single track railways, derail points, when practicable, should be on the inside of curve, and on double track railways, the derail points should be in outside rails of both tracks.

4. On double track railways back-up derails will be necessary.

5. Home signal posts must, when practicable, be located on the engineman's side of the track they govern, and should be not less than fifty (50) feet nor more than two hundred (200) feet in advance of the point they govern, the distant signals should be located not less than twelve hundred (1,200) feet in advance of the home signal, with which it operates and on the same side of the track. The distance signal should be distinguished by a notch cut in the end of the semaphore arm.

6. The arms and back lights of all signals should be visible to the signalman in the tower. If from any cause the arm or light of any signal cannot be placed so as to be seen by the signalman, a repeater or indicator should be provided in the tower.

7. Guard rails should be laid on outside of rail in which the derail is placed and, commencing at least 6 feet in advance of derail, should extend thence towards the end of the bridge, parallel with and 9 inches from track rail, for not less than 400 feet.

8. Application for inspection must be made same as for railway crossings.

By order of the board,

A. D. CARTWRIGHT,
Secretary.

APPENDIX I.

TRAFFIC DEPARTMENT, FILE 2319.
OTTAWA, March 31, 1908.

The report of the operating assistant to the chief traffic officer for the period April 12, 1907 (the date of his appointment), to March 31, 1908, is respectfully submitted.

By direction of the board, by order No. 2843, dated April 12, 1907, an inquiry into the facilities and operation of the Canadian Pacific Railway Company was made. The various divisions were inspected from time to time, and the result was reported to the board on October 12, 1907.

On April 13, 1907, by order of the board No. 2844, an inquiry into the facilities and operation of the Qu'Appelle, Long Lake and Saskatchewan Valley Railway and Steamboat Company was made. The line was inspected at various times and a number of interim reports were made; and the result was reported to the board on June 17, 1907.

On April 19, 1907, under the authority of order No. 2845, an inquiry was made into the facilities and operation of the Canadian Northern Railway Company. Interim reports were made from time to time; the final report to the board bearing date June 17, 1907.

On December 28, 1907, investigation was made into the charge of discrimination against the Dominion Millers' Association by the Canadian Pacific Railway Company with respect to the supply of cars for grain at Fort William, Ont.; and the result reported in accordance with order No. 4036, dated November 12, 1907.

By order of the board No. 4012, dated November 27, 1907, inquiry was made into certain demurrage charges collected by the Canadian Pacific Railway Company from the Independent Lumber Company of Regina, Sask., and the facts reported to the board on January 28, 1908.

Under order No. 3618, dated September 21, 1907, an inquiry into the facilities and operation of the Grand Trunk Railway Company was commenced, but has not yet been completed.

By order No. 4133, dated December 21, 1907, an investigation was made into certain demurrage charges collected by the Canadian Northern Railway Company from the Doukhobour society of Verigen, Sask., and the result reported to the board on January 25, 1908.

By direction of the board, the facilities and operation of the Central Ontario and Bay of Quinte Railway Companies were inspected, and the results reported to the board on February 21 and March 2, 1908, respectively.

A. F. DILLINGER.

APPENDIX K.

OTTAWA, May 16, 1908.

DEAR SIR,—I beg to submit herewith my annual report covering period from April 1, 1907, to March 31, 1908.

Yours truly,

(Sgd.) JAMES OGILVIE.

A. D. CARTWRIGHT, Esq.,
Secretary Board of Railway Commissioners,
Ottawa.

REPORT OF INSPECTOR OF RAILWAY EQUIPMENT AND SAFETY APPLIANCES.

OTTAWA, April 4, 1908.

SIR,—During the year commencing April 1, 1907, and ending March 31, 1908, Inspectors of Railway Equipment and Safety Appliances, including the two assistant inspectors appointed June 1, 1907, who have assisted in the investigations into accidents, examined 102,000 cars, 3,000 locomotives, railway workshops at terminal points, station terminals and fire-guards—the last only in the western provinces. These examinations extended from Yarmouth, Nova Scotia, to Victoria, British Columbia, and involved a travel of 61,837 miles.

At the outset it was found that over 30 per cent of the cars inspected were being operated with defective safety appliances; but latterly, especially within the last few months, there has been a very decided improvement in this regard.

To the credit of the railway companies interested, it is only fair to say that when their attention has been called to defects in equipment, they have not only evinced a willingness to carry out, as far as possible, the recommendations of the inspectors of the Board, to improve the existing conditions, but have invariably issued strict orders to their respective employees, having in view the attainment of this object, and have shown a desire to bring their equipment up to the requirements of the Railway Act and the regulations of the board, and maintain it in a safe and satisfactory condition.

It might be well here to refer to the fact that during the twelve months ending March 31, 1908, our Canadian railway companies have added very largely to their rolling stock.

For example, the Grand Trunk Railway Company has added to its equipment as follows:—

Locomotives—	
Passenger engines	10
Freight engines	72
Switch engines	10
Total	92
Cars—	
Pullman cars	0
First-class passenger cars	38
Second-class passenger cars	7
Freight, all kinds	4,458
Baggage, mail and express	20
Vans	74
Total	4,597

The Canadian Pacific Railway Company as follows:—

Locomotives—	
Passenger engines	40
Mines traffic engines	75
Freight engines	65
Switch engines	15
Total	195
Cars—	
Pullman cars	30
Parlour cars	2
First-class passenger cars	112
Second-class passenger cars	5
Tourist cars	30
Colonist cars	22
Dining cars	17
Freight, all kinds	6,900
Baggage cars	0
Mail cars	0
Express cars	82
Work cars	190
Vans	61
Total	7,451

The Canadian Northern Railway as follows:—

Locomotives—	
Passenger and freight engines	32
Freight engines	41
Total	73
Cars—	
Pullman cars	0
Parlour cars	0
First-class passenger cars	7
Second-class passenger cars	4
Sleepers	3
Colonist cars	0
Dining cars	3
Freight, all kinds	1,798
Baggage cars	6
Mail and express cars	10
Snow plows	2
Vans	10
Total	1,843

The Quebec, Montreal and Southern Railway Company as follows:—

Locomotives—	
Locomotives	8
Cars—	
Cars	766
Total	774

Besides this extra equipment, the Canadian Pacific, Grand Trunk and Canadian Northern Railway Companies have expended large amounts in erecting new engine houses, coaling plants, terminal facilities, &c., at terminal points on their respective lines.

Reference might also be made to some of the more important regulations issued by the Board as the result of the reports of its inspectors, namely:—

(*a*) Prohibiting the use of free acetylene gas as an illuminant in passenger cars.

(*b*) Giving direction as to the safety appliances to be installed and used on locomotive engines ,and prohibiting the use of lignite coal on locomotives until such time as the safety appliances are so improved as to prevent engines from throwing dangerous fire while in use.

(*c*) Requiring the equipment of passenger cars with fire extinguishers

Owing to the large number of railway accidents to be investigated, the extent of territory to be travelled in holding the investigations, and the rapid increase of railway mileage in Canada, particularly in the west, if the work is to be promptly and properly done, the appointment of at least two more inspectors—one to be located in the west, the other in the east—is necessary, and a recommendation has been made to the board to increase the staff of its inspectors to that extent—the new appointees to give their whole time and attention to the inspection of railway equipment and safety appliances.

Yours truly,

(Sgd) JAMES OGILVIE

APPENDIX L.

IN THE MATTER OF BILLS OF LADING.

(Report of Argument before Interstate Commerce Commission, October 15 and 16, 1907.)

October 30, 1907.

SIR,—As directed by the Board, I attended at the argument before the Interstate Commerce Commission in the matter of bills of lading, at the sittings held in the city of Washington, commencing Tuesday, the 15th October instant.

The hearing was the outcome of an order of the Interstate Commerce Commission, dated the 8th day of July, 1907, reciting the fact that these proceedings had been instituted by an order issued November 21, 1904, upon the petitions of the Illinois Manufacturing Association and other trade or commercial organizations in official classification territory, complaining of the proposed adoption by railroad companies operating in the said territory of certain changes in the so-called 'uniform' bill of lading then generally used in the transportation of freight over their respective lines.

The hearing was had in these petitions on the 5th and 6th December, 1904, and at the conclusion of the hearing, it appearing to the Commission that the matters in question were the proper subject for negotiation and settlement between the various conflicting interests, upon its suggestion a joint committee was appointed by the carriers and shippers represented at the said hearing to consider a suitable form of bill of lading and report to the Commission.

This joint committee, after numerous conferences, agreed upon and on June 14, 1907, reported to the Commission a bill of lading form which the Commission was asked to approve and prescribe.

The order of the 8th July, 1907, notified all common carriers by railroad subject to the Act to Regulate Commerce that the matter would be heard at the offices of the Commission, in the city of Washington, on the 15th October, 1907, at which time and place the carriers were required to show cause why the proposed form of bill of lading should not be approved and prescribed by the Commission as a just and reasonable regulation or practice to be observed by them on and after January 1, 1908.

The order also provided that a copy of the petition of the Illinois Manufacturing Association, as well as the proposed form of bill of lading, be served forthwith 'upon each and every railroad company subject to the Act to Regulate Commerce,' and the companies called upon to file any objections they might have to the adoption of the proposed bill, in writing, with the Commission on or before September 16, 1907.

Annexed is a copy of the uniform bill of lading proposed. That the Board may the more readily compare the provisions of this proposed bill with the draft submitted by the railway companies for its approval, I have prepared and attach hereto a form showing on the one side the conditions recommended for the approval of the Interstate Commerce Commission, and on the other corresponding provisions contained in the draft submitted for the approval of the Board.

Boards of trade, chambers of commerce, commercial exchanges and other industrial associations, the American Bankers' Association, the insurance companies—in fact, I think I am safe in saying that all the interests in the United States that would be affected by the adoption of the proposed bill of lading were represented at the hearing, with the result that a great variety of views were expressed, not only in the way of changes and amendments to the proposed form, but in respect of the

adoption and use of different kinds of bills. For example, it was suggested that two forms of bills of lading—one a plain, non-negotiable bill of lading and the other a uniform 'order' bill (copies of which are attached)—would meet the requirements of the commercial interests. The recommendation was that these two forms be printed on different coloured paper so as to make them distinctive; and that on the uniform 'order' bill the carrier's official stamp be used in addition to the agent's signature on the face of the bill. The reasons urged for the adoption of a separate and distinctive bill of lading for use where 'order' bills of lading are required were that all bills of lading are evidence of title, and that, as the 'order' bill is increasing in use, it should be distinctive in its character and easily recognized. This would enable the bankers readily to tell by these distinctive characteristics whether or not the property might be delivered without surrender of the bill of lading. Stress was laid upon this growing importance of the 'order bill,' as distinguished from the straight bill of lading, to the financial and business interests, and that the use of the two bills as proposed would at the same time work no hardship upon the carrier.

Again, it was urged that there should be two forms of bills of lading—one for perishable products and the other for non-perishable products—on the ground that the two kinds of traffic were so different that it would be impossible, or at any rate impracticable and undesirable, to make the one bill of lading cover the two forms of traffic.

Referring particularly to the objections raised and changes suggested to the form of the bill of lading proposed, in so far as these objections appear applicable to the form submitted to the Board:

First, exception was taken to the language—*In issuing this bill of lading this company, with respect to the portion of the route beyond its own line, acts only as agent and agrees to transport only over its own line.* (See at the end of clause 1 on the face of the bill)—in that it did not place upon the carrier an obligation to take the property a longer distance than the end of its own rails or the end of its own route; that existing business conditions demanded that the property, when received by the carrier, should be transported by it to destination, and that the carrier should assume all the risks incidental to such transportation, in so far as such risks are not inconsistent with the duties and obligations of carriers and the present business arrangement; that the conditions of the bill of lading should be assented to both by the shipper and carrier, both for themselves and their assigns (to bind the owners of the property) and connections (to bind the carriers); that the carrier should make actually a through route for each shipment in the same way as it makes a through rate, and having made a through rate and a through route, it should be bound by the duties, obligations and liabilities incident to through carriage.

It was also proposed to strike out the second paragraph on the face of the bill, which reads as follows:—

Nothing herein contained, however, shall be construed as exempting the initial carrier from the liability, if any, imposed upon it by law for loss, damage or injury not occurring on its own line or its portion of the through route, or occurring after said property has been delivered to the next carrier—as casting a doubt upon the constitutionality of that portion of section 20 of the Rate Law of 1906, which imposes a liability for loss and damage upon the initial carrier. This section 20 of the Rate Law of 1906 is what is known as the 'Carmach amendment to the Hepburn Bill,' and the particular provisions referred to are:—

That any common carrier, railroad or transportation company receiving property for transportation from a point in one state to a point in another state shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad or transportation company to which such property may be delivered or over whose line or lines such property may pass; and no

contract, receipt, rule or regulation shall exempt such common carrier, railroad or transportation company from the liability hereby imposed: Provided, that nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

That the common carrier, railroad or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad or transportation company on whose line the loss, damage or injury shall have been sustained, the amount of such loss, damage or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment or transcript thereof.

The words, 'or discrepancy in elevator weights,' in the second paragraph of the first section of the conditions, objected to as affording the carrier an opportunity to decline legitimate claims for loss in weights. It was contended that the facts in each case should control; that the bill of lading should not contain such a limitation. Another suggestion was that after the words 'elevator weights,' the following be added:—

Except as to the amount of freight charges to be collected.

The reason given for this change was that the law permitted the carrier only to collect his freight upon the quantity of the property delivered at destination.

The entire elimination of section 2 of the conditions, for the reason that the section casts a doubt upon the constitutionality and construction of that portion of section 20 of the Rate Law of 1906 (the Carmach amendment) above cited, which imposes liability for loss or damage to property upon the initial carrier.

Objection also taken to subclause 1 of section 3 of the conditions. It was argued that the shipper or consignee should have the right to designate the route which is within reason or can be open between the point of shipment and point of destination, except in special circumstances and conditions or in cases of physical necessity to forward the property by any route which will reach the point of destination.

Subclause 2 of section 3, as to the amount of loss or damage which the carrier shall be liable for, objected to. The liability, it was suggested, should be the value of the property and not 'computed on the basis' of the value of the property; that the invoice price at the time of shipment does not always represent the amount of loss to the consignee; that the proposed paragraph is contrary to the letter and spirit of the Carmach amendment, the theory of which amendment is that the carrier cannot, either by tariff or classification, fix a lower price for the article in settling claims than the actual value of the goods or the actual amount of damage sustained in cases of loss or damage.

Subclause 3 of section 3: That the time within which claims for loss or damage or delay be filed should be ninety days after the delivery; not sixty days, as provided.

The last paragraph of condition 3 was considered objectionable in that its effect might be that the policy of insurance would prevent subrogation. This, it was suggested, could be overcome by adding the words 'So far as consistent with the policy of the insurance.' Another objectionable effect, it was stated, would be to relieve the carrier from liability for the consequences of his own neglect.

Condition 5: The suggestion was that the first two paragraphs of this condition should be omitted for the reason that there are demurrage conditions which cover these provisions; that, under these clauses, the property is made subject to demurrage charges, as well as subject to the local regulation provided in the various localities; that in clause 3 of this condition the term, 'other sidings,' is misleading and uncertain and should be omitted. The word 'locomotives' should be substituted for 'trains.' The reasoning with regard to this last change was that, in large communities, cars were detached from the trains in the carrier's outer yards and switched by locomotives to the private sidings of manufacturing establishments; that, under paragraph 3 of the condition as it stands, the consignee would have no protection for

his property, while still in possession of the carrier after it had been detached from the trains in the outer yards; that cars, after being detached from trains, are often held in the possession of the railroad companies a number of days and sometimes weeks before being placed on the private sidings of the consignee. It was also argued that it was a question whether, under the Carmach amendment, the concluding phrase of this paragraph 3 could have any effect. In other words, whether the carrier could limit his liability until the shipment was actually delivered on the private siding of the consignee.

Condition 6: Suggested that the words 'Unless a special agreement to do so and a stipulated value of the articles are endorsed hereon' be omitted. The reasoning was that the bill of lading ought not to permit any special or unusual or specific agreement as it opens the door to discrimination.

Condition 10. Here the suggestion was that the word 'whatsoever' be inserted after the word 'erasure,' in the first line of the section, upon the ground that it was desirable that the matter of alteration..... in the bill of lading should cover all kinds of alterations, whether made accidentally, carelessly or maliciously, or whether made with or without fraud. This, it was argued, was as necessary and important to the carrier as to the business and financial interests.

The position that counsel for the committee of the American Bankers' Association represented at the hearing took was that they were prepared to endorse either the proposed bill of lading or what is known as the simple or straight form, provided certain suggested amendmenits, which I shall refer to particularly, were adopted. It was pointed out by counsel that, as between the shipper and carrier, the terms upon which the property was carried were entirely a matter of agreement and contract; that the value of the bill of lading in the banker's hands depended upon its negotiability; that, without negotiability, it was practically valueless as an instrument of credit; and that, therefore, the attribute of negotiability was the particular feature of the bill with which the banking community was concerned. It was, they stated, well settled that, inherently, the bill was not a negotiable instrument.

The amendments proposed were:—

1. That the 'order' clause appearing on the face of the bill be amended to read as follows:—

'If the word "order" is written in connection with the name of the party to whose order the property is consigned, the property shall not be delivered until the original bill of lading, properly endorsed, has been surrendered, or, in case of a partial delivery, a statement thereof has been thereon endorsed.

'When the bill has been surrendered it shall be immediately cancelled. This provision shall apply, even though the bill is not marked negotiable. Inspection will not be permitted on order bills of lading, unless permission is endorsed on the original bill of lading, or given in writing by the holder thereof, whether for value or collection.'

2. That the words, 'So far as this does not avoid the policies or contracts of insurance,' be added to the insurance clause (subsection 4 of condition 3) of the proposed bill.

3. The following to be added at the end of section 5:—

'When property is so loaded on private sidings, or where there is no agent, notice to that effect shall be stamped on the bill of lading.'

4. Section or condition 10 to be amended to read as follows:—

'Any alteration, addition, or erasure *whatever its nature* in this bill of lading which shall be made without an endorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenure.'

Counsel on behalf of the Southern railroads objected to the proposed bill of lading. In the first place, they questioned the power of the Commission to prescribe a uniform bill of lading. Next, they argued that the discussion which had taken place

before the Commission established the fact that the proposed bill was not acceptable to the shippers as a uniform bill, and that the different interests which should necessarily be included in a uniform bill were not covered by the one under discussion; and referred particularly to live stock, perishable goods and transportation by water. They pointed out that, in respect of the last named, the laws of the United States gave certain rights to navigation companies not granted to railway carriers. Also that the quarantine question was a very large one with the southern railways; that they are subject to a great deal of fumigation; that the conditions prevailing in the south make regulations or conditions for fumigation necessary; and that if the bill of lading is to be made uniform, it should include these conditions.

Counsel for the shippers' committee, referring to the objections raised, said that most of them had been considered by the joint committee; that the proposed bill of lading was the work of three years' hard and almost continuous labour by this conference committee, consisting, as stated, of the committee of shippers and the committee of the railroads; that it was one thing to propose an absolutely clean bill of lading in the teeth of many generations of practice to the contrary making the carrier an absolute insurer under the common law, and another thing to work this out in practice; that the shippers' committee would have been glad to have worked it out that way, but they felt that there must be some give and take with a view to an adjustment or amicable arrangement, and the proposed bill, therefore, was a sort of compromise. The shippers felt that they were not getting all that they could have desired and would have liked, on the one hand, and the railroads felt that some of the conditions were too onerous, on the other.

He pointed out that, primarily, the carrier was a common law insurer; that the Supreme Court of the United States had held that in a suit against the railroad the shipper was required to prove the loss. Under the proposed bill of lading the railway company must show that it has not been guilty of negligence; and that the carrier is liable as an insurer in every instance, except certain exceptions named in the bill.

Counsel for the committee representing the railway companies stated that the proposed bill of lading was a compromise of different views, and if not satisfactory to all, it at least had been accepted. It was not thought that the proposed bill had covered all shipments, and instanced live stock and cotton. Also the export bill of lading which, he said, from the very nature of things would be different than that required for domestic traffic.

That the joint committee felt and he believed it was generally recognized that it was of vastly more importance in the interests of all concerned that there should be a uniform bill of lading, rather than that the accomplishment of this end should be defeated by a too strict attention being paid to the terms of the bill.

At the conclusion of the hearing the chairman of the commission (which in this matter was comprised of the Honourable Messrs. Knapp, Prouty and Cockrell) announced that the commission was prepared to receive and give consideration to written statements of arguments presented by or on behalf of any interests affected by the proposed bill, filed with it on or before, if my memory serves me, the 30th November, 1907.

Respectfully submitted,

(Sgd.) A. GEORGE BLAIR,
Law Clerk.

A. D. CARTWRIGHT, Esq.,
Secretary, — Building.

SESSIONAL PAPER No. 20c

The Interstate Commerce Commission, by order dated the 27th day of June, 1908, approved the following forms of bills of lading—one to be used for 'order consignments,' and the other for 'straight consignments.' The conditions printed on the back are the same in both cases. The 'order' bill is negotiable; the 'straight' bill non-negotiable.

A. G. B.
Law Clerk.

January, 1909.

. . . . . *Railroad Company.*

ORDER BILL OF LADING—ORIGINAL.

Received, subject to classifications and tariffs in effect on the date of issue of this original bill of lading, at. . . . . 190. . . ., from. . . . . the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destinaton. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

The surrender of this original order bill of lading properly indorsed shall be required before the delivery of the property. Inspection of property covered by this bill of lading will not be permitted unless provided by law or unless permission is indorsed on this original bill of lading or given in writing by the shipper.

NOTES.—The foregoing will appear on the front or first page of the bill of lading.

In connection with the name of the party to whom the shipment is consigned the words 'order of' shall prominently appear in print, thus:—

'Consigned to order of. . . . . .'

The bill of lading is to be signed by the shipper and agent of the carrier issuing same, and space shall be provided for this purpose.

The detail arrangement respecting other matters that customarily appear on the face of the bill of lading, such as name of destination, car numbers, routing, description of articles, weights, &c., will be prescribed by the uniform bill of lading committee.

The size of the bill of lading shall be 8½ inches wide by 11 inches long.

Order bills of lading shall be printed on yellow paper for convenient distinction from bills of lading covering other than 'order' consignments.

. . . . . *Railroad Company.*

BILL OF LADING—ORIGINAL—NOT NEGOTIABLE.

Received subject to classification and tariffs in effect on the date of issue of this Original Bill of Lading at , , 1907, from , , the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said company agrees to carry to its usual place of delivery at said destination, if on its road; otherwise to deliver to another carrier on the route of said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of the said route to destination and as to each party at any

time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof), and which are agreed to by the shipper and accepted for himself and his assigns.

NOTES.—The foregoing will appear on the front or first page of the bill of lading.

The bill of lading is to be signed by the shipper and agent of the carrier issuing same, and space shall be provided for this purpose.

The detail arrangement respecting other matters that customarily appear on the face of the bill of lading, such as name of destination, car numbers, routing, description of articles, weights, &c., will be prescribed by the uniform bill of lading committee.

The size of the bill of lading shall be 8½ inches wide by 11 inches long.

Bills of lading covering what may be termed 'straight consignments,' being those other than 'order consignments,' shall be printed on white paper.

Bills of lading other than those covering 'order consignments' shall be stamped 'not negotiable.'

The following conditions will appear on the back of the bill of lading:—

CONDITIONS.

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof, or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed or other commodities caused by natural shrinkage, or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession) the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner, or party entitled to make such request; or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire, in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. In issuing this bill of lading this company agrees to transport only over its own line, and except as otherwise provided by law acts as agent with respect to the portion of the route beyond its own line.

No carrier shall be liable for loss, damage, or injury, not occurring on its own road or its portion of the through route, nor after said property has been delivered to the next carrier, except as such liability is or may be imposed by law, but nothing contained in this bill of lading shall be deemed to exempt the initial carrier from any such liability so imposed.

Sec. 3. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market or otherwise than with reasonable dispatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route

between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

The amount of any loss or damage for which any carrier is liable shall be computed on the basis of the value of the property (being the *bona fide* invoice price, if any, to the consignee, including the freight charges, if prepaid) at the place and time of shipment under this bill of lading, unless a lower value has been represented in writing by the shipper or has been agreed upon or is determined by the classification or tariffs upon which the rate is based, in either of which events such lower value shall be the maximum amount to govern such computation, whether or not such loss or damage occurs from negligence.

Claims for loss, damage or delay must be made in writing to the carrier at the point of delivery or at the point of origin within four months after delivery of the property, or, in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed. Unless claims are so made the carrier shall not be liable.

Any carrier or party liable on account of loss of or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 4. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public or licensed elevator may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 5. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given, may be kept in car, depot or place of delivery of the carrier, or warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only; or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner, and there held at the owner's risk and without liability on the part of the carrier, and subject to lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays) for loading or unloading, and may add such charge to all other charges hereunder, and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law, or as setting aside any local law or rule affecting car service or storage.

Property destined to or taken from a station, wharf or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars, vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharfs or landings, shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 6. No carrier will carry or be liable in any way for any documents specie, or for any articles of extraordinary value not specifically rated at the published classification or tariff, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 7. Every party, whether principal or agent, shipping explosive or dangerous goods, without previous full written disclosure to the carrier of their nature,

shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 8. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and if required shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading the freight charges must be paid upon the articles actually shipped.

Sec. 9. Except in case of diversion from rail to water route, which is provided for in section 3 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statutes or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances; or from collision, stranding or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress and to deviate for the purpose of saving life or property.

The term 'water carriage' in this section shall not be construed as including lighterage across rivers or in lakes or other harbours, and the liability for such lighterage shall be governed by the other sections of this instrument.

Sec. 10. Any alteration, addition, or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.